THE PROBATION SYSTEM

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BY

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WITH AN INTRODUCTION

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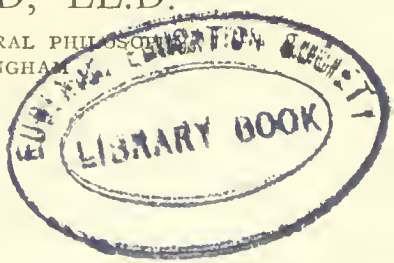

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INTRODUCTION

PROBATION is one of the most interesting of the signs of our times. It is a recognition, all too tardy, in the field of crime and punishment, first, of the sensitiveness of unformed character to the influence of circumstances ; second, of the responsibility of society itself for the direction of this influence ; and, third, of the superiority in certain well-defined cases of the method of home oversight to any form of prison discipline as a means of improvement. It is, perhaps, too early to judge by statistics of the success of the new, as compared with the old system, although those which the writer gives in Chapter V. are sufficiently striking. But it does not need statistics to prove the advantages of the method over imprisonment or even consignment to an institution. The oversight without stigma, the replacement in normal circumstances, engagement in ordinary industry, the opportunity of applying individual care and adopting methods suitable to the individual case, the power of applying the wholesome discipline of making compensation, where the offence is against property, by small self-earned instalments, and, lastly (though the author rightly warns us against the insidiousness of this argument), the saving to the community equivalent to the expense of support in an institution—place the advantages of the system in suitable cases beyond all question.

On the eve of the discussion in Parliament of the Criminal Justice Administration Bill, which contains clauses for the improvement of the Probation of Offenders Act of 1907, a well-

informed and judicious attempt like the present to estimate the value of the work already accomplished and the directions in which it might be improved is particularly timely. The writer has worked under the present Act almost from the beginning, and sums up the experience which is available up to the present time.

A question of great importance is raised on pp. 24—27. We are coming to realise the narrow line that separates moral instability from insanity, and at the same time the radical difference of the methods appropriate to each. Hence the importance of adequate means for the diagnosis of cases. It may not be necessary in order to avoid mistakes to have an alienist present in court ; but it ought to be possible in connection with the preliminary investigation, which is so essential a factor in the new system, for the investigator, in consultation with some responsible official, to demand a medical opinion when there is reason to suspect insanity.

It was a Birmingham man[1] who, I believe, first called public attention to the Probation System as operative in Massachusetts since 1878. Birmingham also was the first to adopt it in this country, as it was the first to establish a Children's Court. It is, therefore, appropriate that the first book upon it published in England should come from this city. I may add that it is further satisfaction to a teacher in the Social Study Department of this University that it has been written by one of its first students.

J. H. MUIRHEAD.

BIRMINGHAM UNIVERSITY,
June 12, 1914.

[1] Mr. Joseph Sturge, before the Royal Commission on Reformatory and Industrial Schools, 1883.

PREFACE

THE following chapters do not pretend to cover the probation system completely. They are chiefly an attempt to deal with the raw materials, as it were, of which the system is composed—the choice of offenders suitable for probation, the selection of probation officers, the treatment of offenders who violate the conditions of their release, and so on. By and by, probation will no doubt develop a technique of its own ; for the present, however, while the system is itself still on probation, one can perhaps serve it best by paying chief attention to these its elements.

The materials on which these chapters are based were gathered partly from my own practical experience of probation work, and partly from a two-years' study of probation systems abroad. It will be seen that American probation figures rather prominently. This is because probation is more mature in America than elsewhere ; for, while it is true that probation of offenders in England dates back much farther than the passing of the Probation of Offenders Bill

in 1907, it is only since that Bill became law that probation, with the probation officer as an essential element, has attained anything approaching a proper footing. So far as England is concerned, statutory probation is a new thing. In America, however, this is not so. The Massachusetts Probation Act, for example, was passed in 1878, and was itself preceded by many years' informal probation work; while by 1908—the year in which the English Probation of Offenders Act became operative—probation laws were possessed by no fewer than thirty-four American States and the District of Columbia. Moreover, the probation system is more frequently applied in America than in England; for whereas offenders placed on probation in England probably do not exceed 2 per cent. of the whole, in Massachusetts the proportion is about 10 per cent.

These facts indicate an experience of the probation system at once longer and wider than our own, and, making due allowance for different conditions, it appeared likely that if only a little could be gained from the fund of experience thus accumulated, the effort would be well worth making. The results of the inquiry amply justified this view. The administrative difficulties encountered in American probation work were very similar to those now confronting

the system in England; and, for my own part, I freely admit my indebtedness to the study of American probation.

I wish to thank those magistrates and probation officers, in every State in America, whose hearty co-operation made this inquiry possible; to Mr. Edwin Mulready, Deputy Commissioner, Massachusetts State Probation Commission; Mr. Frank E. Wade, Vice-President, and Mr. Arthur W. Towne, Secretary of the New York State Probation Commission, my thanks are especially due.

C. L.

FIRCROFT SETTLEMENT,
NEAR BIRMINGHAM.
May, 1914.

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PROBATION AND PROBATION INSTITUTIONS

CHAPTER I

PROBATION AND PROBATION INSTITUTIONS

PROBATION is a system by which reclaimable offenders are given an opportunity to reform. It is applied to those in whom wrong-doing is not habitual, and whose youth, previous good character, or other circumstances, give reasonable hope of reformation. Instead of being punished, these offenders are conditionally released under the friendly supervision of a skilled social worker, known as a probation officer. For a certain period, usually for twelve months, they are watched over by the probation officer. Their habits and surroundings are studied, and efforts are made to change those unfavourable to good conduct. At the end of the probationary period, the court reviews the case against each offender. If he is shown to have responded to his opportunity, no penalty for his offence is

imposed. If he has not responded, he is returned to court and sentenced for the original offence.

The probation system is of American origin. It began in Massachusetts, U.S.A., in 1878, owing chiefly to the voluntary efforts of social workers in the police courts of that State. Prior to 1878, the Massachusetts courts had adopted a practice of adjourning suitable cases from time to time, and of asking social workers to supervise the offenders concerned in them. The proceeding was a quite informal one, adopted only with the offenders' consent, and during their good behaviour.

The Massachusetts Probation Act of 1878 —the first law on probation of offenders passed in any country—gave to this practice a definite legal basis. The Act applied to juvenile and adult offenders, and provided for publicly-paid probation officers, to whom it gave wide powers. They were instructed to investigate the cases of all persons convicted of crimes or misdemeanours. If the result of this investigation showed that any offender might reasonably be expected to

reform without punishment, the probation officer had the right to recommend that offender's release on probation. The officer was further empowered to re-arrest, without warrant, any offender who broke the conditions of his probation, and to bring him before the court for sentence.

From its commencement in 1878 to 1899 the probation system was confined to Massachusetts. During these years, however, much informal probation work was done by voluntary police court workers elsewhere, not only in America, but in England also. The late Sir Henry Curtis Bennett, of the Metropolitan Police Court, in his evidence before the Departmental Committee on the Probation Act of 1907, spoke to a practice of the London police courts of conditionally releasing offenders on bail. The bail taken was usually that of the police court missionary, and he it was whom the magistrate asked to watch over offenders so released. This practice is said to have obtained even before the passing of the Summary Jurisdiction Act in 1879.

The informal supervision of offenders,

outlined above, has almost invariably preceded the legal adoption of the probation system. Or, conversely, wherever there has existed any appreciable number of organised voluntary police-court workers, the pressure exercised by them and the bodies to which they belonged has usually resulted in statutory probation. In some rare cases local authorities have paved the way for legal recognition of the system. This was the case in Birmingham, where an amicable arrangement between the justices and the Watch Committee led to a *quasi*-legal probation system for juvenile offenders many years before the Probation of Offenders Act was passed.

Probation in England made a step forward in 1887, with the passing of the Probation of First Offenders Act. From the strict probation point of view, however, this Act was of very little real use, for the reason that, while it permitted the conditional release of first offenders, it made no provision for the appointment of probation officers. Therefore, except where police court missionaries or other voluntary social

workers agreed to watch over them, the court had no means of knowing whether these offenders kept or broke the conditions under which they were released.

Probation is now administered under the Probation of Offenders Act, 1907. The Act came into force on January 1, 1908, and differs from the earlier law in two important particulars. In the first place, it takes away the limitation whereby, under the Act of 1887, probation was confined to first offenders. Probation may now be applied to any reclaimable offender, whether a " first-timer " or not. Secondly, it provides for the appointment of salaried probation officers. Thus, when the court now gives an offender conditional freedom it does so with the knowledge that, should its clemency be abused, the fact will be brought to its notice by the probation officer. Moreover, the court feels that, by introducing into the offender's life the probation officer, it is not returning him to the precise conditions in which his wrongdoing occurred. It knows that the efforts of the probation officer are likely to have

good results in correcting defects both of character and surroundings.

The Act provides also that probationers be subject to :—

> " such conditions as the court may, having regard to the particular circumstances of the case, order to be inserted therein with respect to all or any of the following matters :—
>
> " (*a*) for prohibiting the offender from associating with thieves and other undesirable persons, or from frequenting undesirable places ;
>
> " (*b*) as to abstention from intoxicating liquor, where the offence was drunkenness or an offence committed under the influence of drink ;
>
> " (*c*) generally for securing that the offender should lead an honest and industrious life." [1]

The Act further provides that :—

> " The court by which a probation order is made shall furnish to the offender a notice in

[1] Two weaknesses in these conditions are (*a*) they give the court no power to say where the offender shall reside (see Chap. IV., p. 119), nor (*b*) do they permit the court to prohibit the use of intoxicants in cases where their use conduced to the offence, unless the offence actually were drunkenness or an offence committed under the influence of drink. These defects are removed by the Criminal Justice Administration Bill, which proposes to repeal (*a*), (*b*), and (*c*) above, and substitute the following :—

" A recognizance under this Act may contain such additional conditions with respect to residence, abstention from intoxicating liquor, and any other matters, as the court may, having regard to the particular circumstances of the case, consider necessary for preventing a repetition of the same offence or the commission of other offences."

writing stating in simple terms the conditions he is required to observe."

The Probation of Offenders Act gives power to vary conditions of release as follows :—

> " The court before which any person is bound by his recognizance under this Act to appear for conviction or sentence may, upon the application of the probation officer, and after notice to the offender, vary the conditions of the recognizance, and may, on being satisfied that the conduct of that person has been such as to make it unnecessary that he should remain longer under supervision, discharge the recognizance." [1]

The probation system divides naturally

[1] This section does not make it clear that a court may *extend* the period of probation ; the Criminal Justice Administration Bill repeals the whole section and substitutes the following :—

" The court before which any person is bound by a recognizance under this Act to appear for conviction and sentence—

" (*a*) may at any time if it appears to it, upon the application of the probation officer, that it is expedient that the terms or conditions of the recognizance should be varied, summon the person bound by the recognizance to appear before it, and, if he fails to show cause why such variation should not be made, vary the terms of the recognizance by extending or diminishing the duration thereof, so, however, that it shall not exceed three years from the date of the original order, or by altering the conditions thereof, or by inserting additional conditions ; or

" (*b*) may on application being made by the probation officer, and on being satisfied that the conduct of the person bound by the recognizance has been such as to make it unnecessary that he any longer be under supervision, discharge the recognizance."

into two parts, viz., juvenile probation, which in England covers children and young persons under the age of sixteen, and adult probation, dealing with offenders of sixteen and over. Probation amongst children differs greatly from probation among adults. With adults, efforts at reformation are chiefly directed to the surroundings or character of the offender himself; with children, attention must be given to the offender and to his parents. Thus, juvenile and adult probation are usually administered separately. In England, both branches of the system are administered under one Act, but, as far as possible, by different sets of officers. In many of the American States, however, administration is not only by separate officers, but under separate laws also.

JUVENILE PROBATION.

From the foregoing it will be observed that the idea embodied in the probation system is essentially that of character building, and that between such an idea

and the degrading associations of police court and gaol there exists no little contrast. Probation, and especially juvenile probation, could scarcely be expected to flourish in the sordid atmosphere of an ordinary police court. Merely to bring the child there, to permit him to mingle with depraved adult criminals, and to risk contamination from them, would be to defeat at the outset the chief purpose of probation.

To avoid this, to ensure that the circumstances attending a susceptible child's appearance before the magistrates are free from danger, and that the court proceedings shall assume a tone favourable to the probation officer's subsequent efforts, the probation system as applied to juvenile offenders requires not only provision for their conditional release under a probation officer, but also for children's courts, separate from the courts used for adult offenders, and for detention homes, to which juveniles may be remanded, pending the final judgment of their cases.

The original Children's Court was opened

in Chicago, Ill., in 1899. Illinois was the first State to follow Massachusetts in legally adopting the probation system, and the Chicago Children's Court was a direct outcome of this. The court is noteworthy in that it is not a criminal court, but a chancery court; *i.e.*, the children appearing before it are not viewed primarily as offenders deserving punishment, but as wards of the State needing protection. Under chancery procedure, *it is not necessary to wait until a neglected child commits an offence* before taking needful action in his interests. The fact that the child is neglected is sufficient of itself to bring it within the jurisdiction of the court. The children's court in this sense reveals the State *in loco parentis*: it is more of a social institution than a legal one: its proceedings are equitable rather than criminal.

The chancery view, that the children's court represents the State as over-parent, permits an offender to be corrected for acts short of crime, but likely, if persisted in, to result in crime; or, if the child has committed crime, permits his correction with-

out charging him with crime. This is done by laws defining such conduct as disorderly or delinquent, and permitting the child to be brought into a court in which the scheme of probation is directed by these laws to be employed. A special section of the school law of Colorado, for instance, permitted this to be done. The child having committed a theft, say, could be brought to court on a petition being filed charging him with disorderly conduct. It was not necessary that the child be charged with, or found guilty of, a crime. Courts having jurisdiction in such cases are popularly known as "School Courts," an especially happy term, as emphasising the essentially educational character of their work.

There still remain, however, many parts of the proceedings of juvenile courts, even when nominally carried on under chancery procedure, that savour of the older criminal trials. The right of trial by jury, and the charging of the child with a specific offence, survive still in many courts. If the criminal character of children's trials is to be entirely eliminated, it will be needful to

omit both the right of jury trial and the practice of charging the child with, and finding him guilty of, an offence. As is pointed out by Mr. Bernard Flexner, attorney, Louisville, Ky., it should be sufficient to find simply that a juvenile law-breaker is a child in need of the care and protection of the State, and so avoid anything involving a criminal conception of children's trials.

The first children's court in England was opened at Birmingham in April, 1905. It was made possible by an arrangement between the Birmingham justices and the Home Office, and had been established for three years before separate juvenile courts became compulsory throughout the country under the Children Act.

The Children Act of 1908 makes no such radical alteration in juvenile court procedure as obtains in the Chicago Chancery Juvenile Court. The courts for which the Children Act provides are still, strictly speaking, criminal courts, though the proceedings are usually considerably modified and softened. The Act does, however,

secure for child offenders isolation from adult criminals, and freedom from many of the sordid circumstances attendant on ordinary police court trials. Except where children and adults are jointly charged, the Children Act requires that all trials of children and young persons under sixteen shall be held in a different building or room from that in which ordinary courts are held, or on different days or at different times from those of ordinary sittings.

The innovations made by the Children Act in children's trials are good, so far as they go, but much still remains to be done. The presence in court of uniformed police officers, the formality which still characterises the proceedings, the plea of guilty or not guilty, all tend to destroy in the child that feeling of confidence which the magistrates themselves seek to inspire. The magistrate tells him he is brought there in his own interest ; the child sees the policemen, and fails to be convinced. If he is at all sensitive, the ordeal terrorises him ; if not, he brazens the thing out, and becomes the hero of his playmates for the rest of his

childhood. In either case, the object of the court is missed.

The reason for this lies simply in the fact stated above, that the children's courts of England are still criminal courts, whereas the American children's courts are chancery courts. In England, the chief consideration is the offence of the child ; in America, the chief consideration is the offender. In the words of Mr. Julian Mack, Justice of the original Children's Court in Chicago :—

> " The question we have to determine is not, ' Has the child done a certain thing, and should a certain thing be done to the child because of its act ? ' but it is purely and simply, ' What can we do to save and redeem this child ? ' "

In England we do all in our power to identify ourselves with this, but we lack courage to write our aims definitely into the children's court law. The result is that the old, terrifying forms still obtain, and make our work much less valuable than it deserves to be. The progressive States in America are not so timid. The law under which juvenile courts are administered in Massachusetts, for instance, states quite definitely :—

> "that as far as practicable, children shall be treated, not as criminals, but as children in need of aid, encouragement and guidance. Proceedings under this Act shall not be deemed to be criminal proceedings."

I am indebted to the Judge of the Boston (Mass.) Juvenile Court, Mr. Harvey H. Baker, for the following description of his court :—

> "The court is administered on the assumption that the fundamental function of a juvenile court is to put each child who comes before it in a normal relation to society as promptly and as permanently as possible, and that while punishment is not by any means to be dispensed with, it is to be made subsidiary and subordinate to that function."

The Boston Juvenile Court is held in the magistrate's private room, situate in a quiet corner of the city, overlooking an interior quadrangle, and quite shut off from the public street. The "court" cannot accommodate more than a dozen persons comfortably, and thus, the unnerving effects of facing thirty or forty people, common in English children's courts, is quite avoided. Officials are forbidden to attend the court in uniform. The magistrate sits on a platform raised about six inches from the floor, but no

other formality either in arrangement or attendance is permitted. The only attendant present in court is one probation officer, and nothing is allowed likely to distract the attention of the child—no decorations on the walls, no clerks rushing in and out of the room, no shouting for parties in the next case, and so on. In these conditions, the undivided attention of the child is secured. He can be spoken to with the natural voice, and his replies are clear and calm.

When the magistrate is ready, the child is brought into the room by the probation officer, who places him next the magistrate, where he can be seen from top to toe, for Judge Baker says, "the way a child stands, and even the condition of his shoes, are often useful aids to a proper diagnosis of the case." If the child is nervous, the magistrate is near enough to reassure him by a friendly hand on the shoulder.

When a child is reluctant to tell the truth, the magistrate talks with him entirely alone, or maybe the probation officer is permitted to remain. The purpose of this

is to break down the child's embarrassment. It is found that a child will say to the justice privately what he would fear to say before his parents.

There is no formal charge read out, nor is any plea, "guilty" or "not guilty," required from the child. Judge Baker recounts a typical examination and adjudication, thus :—

> "John, do you know what you have been brought to court for ?"
> "I suppose it is about Mrs. Doe's money."
> "What have you got to say about it ?"
> "I took it, but it was the first time," etc.

The attendance of at least one parent at the beginning of the case is always insisted on, and after a conversation such as the above the parents and the police officer in charge of the case, and sometimes the aggrieved parties, are brought into the room, if they were not admitted with the boy, and the magistrate says :—

"John admits it is true he took Mrs. Doe's money, and I adjudge him delinquent."

The police officer is then dismissed, the child sent out of the room, and the magistrate talks over the case with the

parents and the probation officer. The parents can thus be admonished, if that be necessary, without lowering them in the child's estimation and thereby further impairing their control. The child is then brought back and told of the magistrate's decision, his behaviour is commented upon, and such admonition or encouragement given as appears appropriate.

Great pains are taken to get the child to volunteer the truth about himself, partly because it greatly enhances the efficacy of the probation officer's subsequent efforts, and partly because it has a good effect on the parents. Where a child stoutly maintains his innocence, the parents usually agree with him, no matter what the weight of evidence. But where the child himself confesses his misdeeds, their attitude is otherwise ; so that whereas in the former case the parents regard the magistrate as a heartless wretch, and the probation officer as an intruder ; in the latter, where the child admits his fault, they usually show themselves just as willing to co-operate in the constructive efforts of the court.

The immediate cause of the child's appearance having been disposed of, the magistrate and probation officer confer together, addressing themselves to such questions as whether the act was of an accidental nature, *i.e.*, the outcome of a peculiar set of circumstances, unlikely to recur; or whether it is the expression of a more serious habitual attitude of mind on the part of the child. The child is examined for physical and mental defect, and his eyes, ears, throat and teeth are scrutinised.

The decision of the magistrate may be anything from committal to a reformatory to a sentence to write out neatly a copy of the city bye-laws, regulating the use of public streets. This latter is a favourite punishment for playing football in the public thoroughfares! But, whatever the penalty, it is not wholly governed by the specific offence which brings him to court. On this point, Judge Baker says :—

> "A boy who comes to court for some such trifle as failing to wear his badge when selling papers may be held on probation for months because of difficulties at school; and a boy who comes in for playing ball in the street, may (after

> the court has caused more serious charges to be preferred against him), be committed to a reformatory school, because he is found to have habits of loafing, stealing, or gambling, which cannot be corrected outside."

All of which goes to emphasise the point made above, that in dealing with delinquents—and especially with juveniles—the important thing is not the offence committed, but the offender who committed it.

Detention homes are also provided for by the Children Act. Under sections 109 and 110, it is forbidden to commit to prison, while awaiting trial, any child or young person, and local authorities are required to provide suitable premises for the detention of such children. The first specially built and equipped detention home was opened in Birmingham in December, 1909.

It will be clear that no matter how wisely framed be the laws for safeguarding delinquent children whilst in custody, and no matter how sincere the efforts toward their regeneration made by probation officers after their release, neither can be of much avail unless seconded by the children's

parents. It is the parents who determine the character of the chief part of the child's environment—the home ; and no matter what may be done to uplift the child, it is with the home, and with the parents who make it, that the ultimate decision rests. Too often, however, the parents' attitude is not merely passively unhelpful, but actively so. Thus, where the offence of a juvenile is traceable to parental neglect or misconduct, this contributory factor needs to be provided against.

" Contributory delinquency "—the term used to denote culpability in the parents of juvenile offenders—was first made a punishable offence in Colorado, U.S.A. An Act drafted by the Denver Juvenile Court magistrate, Mr. Ben B. Lindsey, and passed with the Colorado Probation Act in 1903, made it a misdemeanour, punishable by fine or imprisonment, or both, for any adult to cause, encourage or contribute to the offence of a juvenile. Similar excellent provisions are contained in the English Youthful Offenders Act, 1901, and in the Children Act. Under the Youthful Offenders Act,

where it appears to the court that the parent or guardian of the offender has conduced to the commission of the offence, the court may order payment of damages or costs by the parent or guardian; whilst, under the Children Act, parents or guardians whose negligence or misconduct conduces to a child's offence are liable to fine in lieu of the child, with or without other punishment. In 1911, such fines were imposed in 1,424 cases.

Bearing in mind the longer experience of the probation system which America has had, as compared with England, it is not surprising to find that to many of the later American experiments we have no English counterparts. Some of these experiments are, however, of much interest, and, being framed to meet conditions quite as much with us as with them, are well worth study. This is especially true of the comparatively new American practice of classifying and treating defective offenders in juvenile court clinics.

The juvenile court clinic is really complementary to the juvenile probation

system. Delinquency is traceable in the last resort either to social defect, or to physical or mental defect, or to both reacting on each other. The readjustments in the former cases constitute the special work of the probation system. Offenders in the defective class need something more than probation, however, unless that term be understood to cover medical diagnosis and treatment; and juvenile court clinics were set up to supply the deficiency.

Formerly, juvenile courts made no provision for discovering these defective offenders, much less for treating them. The result was they were dealt with as normal. Their social condition was inquired into, and such correction as could be made was made; but no one attempted to look beyond the social to the medical and psychological aspects of such cases. In the clinic, however, all aspects of a case are investigated. Before the child appears in court, a comprehensive inquiry is made into his social, mental and physical condition, and upon the data so acquired a diagnosis is prepared showing to which of these factors

the offence is predominantly attributable. The diagnosis then goes from the clinic to the magistrate, with a recommendation that the delinquent be referred back to the clinic for such professional treatment as the diagnosis shows to be needed.

The investigations upon which the diagnosis is based are made by a medical man, assisted by specialists in neuropathy and psychology, and by experienced social workers. The clinic's first object is to furnish an analysis of each case from the standpoints of social, physical and mental pathology. It is concerned with the offender rather than the offence, the child being dealt with primarily as a patient, and not as a lawbreaker.

Two important facts are brought to light by the clinical examination of defective offenders. In the first place, when the offence is studied in relation to the defect a striking correlation is said to be revealed between physical and mental abnormalities and abnormal conduct; epileptics, for example, exhibiting a periodicity in their offences coincident with the epileptic

attacks. In the second place—and the point should be emphasised—the defects of many offenders readily yield to treatment. Further—and perhaps this is even more significant—physically and mentally defective offenders, though relatively few as to number, form the group from which habitual offenders are chiefly recruited. The problem of the recidivist, therefore, becomes to a large extent the problem of the defective juvenile delinquent.

This question of defectives cannot but have far-reaching effects on the results of probation in England. It is, of course, untrue to say that we make no attempt in England to discover such delinquents, but our courts certainly make no adequate provision for their discovery. Under our present system it is quite possible for epileptic and mentally defective offenders to be released on probation ; indeed, cases of this kind are within the writer's personal knowledge. One of these, an ex-pupil of a "special school" for feeble-minded children, passed through the ordinary police court trial, and was released on probation, with-

out his deficiency being once suspected. Had it been suspected, no doubt probation would not have been applied to the case; but the significant fact is that it was not discovered, and that for the simple reason that the court possessed no means whereby it could have been.

To place defective offenders on probation without at least making some attempt to treat their defects is clearly unfair to the community, besides being unjust to the offenders, the probation officer, and the probation system. On the other hand, these irresponsibles should not be committed to industrial or reformatory schools, not only because that course is unjust to them, but because it is unjust to the other children in these institutions. Committal to prison is also out of the question, while to discharge them into the community again is simply asking for a repetition of their offences. Yet these four methods—probation, Home Office school, prison and discharge—practically exhaust the resources of the magistrate. He possesses no other alternative.

The fact is, we make no provision for

criminally defective children. They have no place in our social scheme. We require appropriate institutions to which they may be committed—indeterminately, when that is needful—where they may be made happy, but where they may not be permitted to menace society. This view is supported by the findings of the Royal Commission on the Feeble Minded (1908), which recommends :

> "That in a court of summary jurisdiction, prior to conviction and apart from it, the justices should remand offenders to a receiving home or ward or institution or to other interim custody, or adjourn the case, and subsequently, if the medical certificates justify such a course, adjourn the case *sine die* and order the reception of the offender in an institution considered suitable by the committee for the care of the mentally defective."

Much may be done along these lines under the Mental Deficiency Act of 1913, which is based largely on the findings of the above Commission. The Act provides that any defective offender, medically certified as such within the meaning of this Act, on conviction by a court of jurisdiction of any crime punishable in the case of an adult with penal servitude or imprisonment, or, in

the case of a child, with commitment to an industrial school, may, after an order has been obtained, be treated as defective, and be held in an institution during the period of the order. As to the duration of such orders, it is provided that :—

> " An order made under this Act that a defective be sent to an institution or placed under guardianship shall expire at the end of one year from its date, unless continued in manner hereinafter provided. . . .
>
> " An order shall remain in force for a year after the date when under the preceding provisions of this section it would have expired, and thereafter for successive periods of five years, if at that date and at the end of each period of one and five years respectively, the Board . . . consider that the continuance of the order is required in his interests and make an order for the purpose."

A practice which has added largely to the value of probation is that of inviting voluntary helpers to co-operate with the salaried probation officer in the rehabilitation of offenders. It is too often the custom of professional probation workers in England to look askance at the use of volunteer probation officers ; and, where it is sought to administer probation exclusively by voluntary workers, that attitude has much to be said for it. Nevertheless, there is no

doubt at all that the paid probation officer's work is made much more valuable when allied to the voluntary forces of the community than it could ever be without them.

One of the first, if not the first, corps of volunteer probation officers in England was formed in Birmingham, and was recruited chiefly from local religious bodies. No general appeal was made for these workers. On the contrary, likely men were approached individually, told of the need, and invited to co-operate with the professional probation officer in the reclamation of some one offender, preference being given to helpers living in the offender's own neighbourhood.

Probably the most successful volunteer probation service is that of Indianapolis, U.S.A., which was begun in 1903, and it may be helpful to show briefly how this organisation came into being. When the need for probationary oversight was first considered in this State, the intention was that such oversight should be wholly by salaried probation officers. Financial difficulties, however, led to a modification of this intention, and ultimately a system

was adopted combining salaried and voluntary workers.

The Indiana statute relating to probation gives the magistrate power to appoint "such discreet persons of good moral character as are willing to serve the court without compensation." In securing the services of such persons the method employed was that of direct and personal solicitation, rather than of indiscriminate appeal. In the beginning, many societies—the Y.M.C.A. and similar organisations—put at the disposal of the court part of the time of their workers, much in the same way as the various missionary and rescue agencies did in England; and this nucleus, consisting of about forty persons, elected a committee and held monthly meetings to discuss various phases of probation work. The committee also made it its business to secure additional volunteers.

The first public presentation of the need for volunteers was made by the chairman of this committee in 1903. Immediately afterwards, a special sub-committee was elected to reach systematically other pos-

sible helpers. Pastors of the leading churches were asked for names and addresses of members of their congregations fitted for probation work, and these persons were invited to a further meeting, at which the need of the court was again presented. The result was that the Indianapolis probation service gained a permanent footing. A circumstance worth noting, as showing the social class amongst which volunteers were sought, is that this last gathering took place at the Indianapolis Commercial Club, the leading organisation of the city's business men.

The present strength of the Indianapolis volunteer corps is between 600 and 700. It is composed of professional men and women, and ministers of all denominations, together with about 100 public-spirited women. Appointments are made by the juvenile court magistrate, on the recommendation of the chief probation officer. Volunteers are given the same powers over their charges as professional probation officers; though it should be added that it is through personal influence, rather than authority,

that the voluntary probation officer seeks to work.

The English Probation Act does not forbid the appointment of volunteer probation officers. When, however, the offender is placed under the regular court probation officer, and that officer deems it advisable to enlist the services of a volunteer, it is not possible, under the Act, to give the court's authority to the volunteer as well as the professional officer. Therefore, since the volunteer usually comes into the case after the probation order is made out, and the supervising officer named, he has no official status, and no official authority over the offender. As the professional officer does possess such authority, however, the point is not of great importance. It might, in special cases, be an advantage to invest the volunteer with authority equal to that of the professional officer; but, speaking broadly, it is unlikely that the volunteer would be able to achieve by legal authority what he failed to do by personal suasion.[1]

[1] See Chap. IV., pp. 127–134.

Adult Probation.

Much that is said above under the headings of defective offenders and of volunteer probation officers applies to adult probationers as well as to juveniles. Apart from these, and excepting differences in the methods of dealing with adults as compared with juveniles, the chief features peculiar to adult probation have to do with the scope of the system, the character of their supervisors, and certain special methods framed to meet special classes of offence, particularly those of a domestic character.

For the adjustment of domestic troubles, involving deserting husbands, husbands who continue to live with their families but refuse to maintain them, and offenders of like character, the good offices of the magistrate are frequently sought. To deal successfully with these cases is a matter at once delicate and extraordinarily difficult. Clearly, however, the situation is aggravated rather than improved by sending the defaulting husbands to gaol; for, by so doing, one precludes any possibility

of their supporting their families. Imprisonment may have to be resorted to, but only as a last resort : more constructive methods should first be tried.

Happily, a great proportion of these domestic cases yield to the methods of probation. Occasionally, the court places the defaulting husband directly on probation ; but usually the case is put back for a few days in order that the probation officer may have an opportunity of inquiring into the situation. In many instances, the officer is able to effect a reconciliation, without recourse to further court action. Where the parties remain obdurate, however, the one in default is put under recognisance to fulfil his obligations, special conditions being inserted as needed.

Notwithstanding the great amount of work of this nature that is undertaken in our English courts, it is doubtful whether we fully realise the possibilities of the probation system in dealing with non-supporting husbands. Partly because our indignation at the utter meanness which many of these offenders exhibit overcomes

our common sense, and partly because the odds and ends of family strife are deemed too trivial for systematic treatment—this in spite of the fact that non-adjustment of these difficulties very often makes all the difference between right conduct and wrong in the family groups involved—we are content to turn into gaol-birds men who, under firm but friendly direction, might be restored to permanent habits of industry and normal family life. For that it is possible so to restore this type of offender, the experiments of Massachusetts, New York, and Illinois abundantly prove.

The problems presented by domestic relations cases, and the success which attended the application of probation to them, has led in the above-named States to the institution of special courts, called "Domestic Relations Courts." Domestic relations courts deal with husbands who fail to make proper provision for their wives and children, or who abandon their children, and with adult sons and daughters who refuse to maintain their aged parents. Formerly,

the courts found, as we now find, that the objects sought by legal action were not furthered, but defeated, by imprisoning these offenders. Hence, it is now the rule to place them on probation, and to insert in the conditions of probation one requiring the offender to pay a fixed sum periodically to the probation officer for the support of dependants. By this means, not only is the immediate object of the prosecution—the support of dependants—attained, but also, through the advent of the probation officer, an opportunity is given for friendly constructive work in the probationer's home, the husband being stimulated to steady work and sober habits, the wife to such amendment as may be needful, and both to mutual tolerance and a greater sense of responsibility. The advantages of the method over mere imprisonment are too obvious to labour; and that it answers is attested by magistrates and probation officers without exception.

In 1913, in Massachusetts, a sum equivalent to about £30,000 was collected from offenders of this kind. The Massachusetts

State Probation Commission comments upon this as follows :—

"While the large sum of money collected by the probation officers of the State is not converted permanently into a public treasury, it is not less an actual financial public benefit. Consisting very largely of enforced payments from otherwise non-supporting husbands and fathers, it goes to the same extent and without diminution to the natural dependants. It relieves the State and the municipalities of the cost of caring for these neglected persons, and observation shows that this saving is substantially equal to the amount collected. Meanwhile, the probationer who is made to contribute it is usefully employed, as he must be in order to provide for the payments, and the public is relieved of the expense of maintaining him in gaol. It is obvious that the collection from the probationers, by replacing the public care of both them and their families, gives the Commonwealth and its cities and towns financial relief far beyond the sum of the collections. If the value of the probation service were to be measured by its financial results, the claim that it was self-supporting would be short of the truth. It is actually a service of profit, and to an extent that cannot be measured. The operation of the non-support collection system has a higher than financial claim to the State's approval and the pride of its public-spirited and humane people. The husband and father who separates himself from those whose dependence upon him is both a legal and a moral claim is given a practical understanding of his civic obligation. Common experience establishes the fact that the man who is held under this system almost invariably responds to the appeal to his sense of duty. The civic value of this appeal,

> and of the discipline that goes with it, may well be claimed to be the supreme consideration in a full estimate of the worth of this branch of the public service."

One of the few respects in which adult probation in England surpasses many recent American systems is that the English Probation Act leaves the court free to apply the system to any reclaimable offender, and for any offence, as it thinks expedient, whereas the tendency of recent American probation laws is to limit the discretion of the court in these respects.

The wide discretionary powers enjoyed by our English courts under the Probation Act appear in little danger of abuse, at any rate as regards adult offenders, the present tendency in England being toward too restricted, rather than indiscriminate, use of the system. Since, however, limitations of this discretion do appear to have been found necessary by some American States, and those, too, the States in which adult probation has been more recently adopted, it may be well to view the circumstances relating to this departure.

The beginning of the tendency to limit the court's powers in regard to adult probation is marked by the Probation Act of Indiana, passed in 1907. During 1907, and since, adult probation has been statutorily restricted by various States, either according to the nature of the offence or to the character of the offender, *e.g.*, some States forbid adult probation altogether for felonies, others confine it to specified felonies, others to misdemeanours, whilst in yet other States adult offenders are ineligible for conditional release on probation if they have been previously convicted of crime, or previously imprisoned for crime.

In the early days of adult probation, and when the system was confined exclusively to American States, the courts were given unrestricted discretion in its application, both as regards the offenders and offences involved, each case being considered on its merits. The Massachusetts Probation Act of 1878, and the New York Act of 1901, permitted probation to any reclaimable adult, at the court's discretion; and the fact that these pioneer States have since

seen no reason to impose restrictions appears to argue the absence of any general abuse of such discretion. And when it is remembered with what ease American laws are repealed or amended, the continuance of the wide discretionary powers originally bestowed becomes still more significant. Therefore, in view of the facts, one must conclude that recent limitations of the scope of adult probation in America, from whatever other cause arising, have not come about through the teaching of experience, but either in ignorance of it, or despite it—a conclusion not without its bearing on the continuance of unrestricted adult probation in England.

Police officers and officers connected with prisons are sometimes called upon to do probation work, both in America and in England. This practice is difficult to reconcile with the spirit of probation, and must be held to indicate either a strange perversion of reasoning or gross ignorance of the kind of man needed for probation work. It should be remembered that while probation is essentially constructive and redemptive in character, the work for which police and

gaol officers are definitely trained can scarcely be so described. Therefore, to place probationers under the control of such officers, and to suppose that in each officer is to be found at once a police or prison official, trained to deter and repress his charges, and a probation officer qualified to stimulate and develop character in *his* charges, is rather too absurd. Not only so; it should be borne in mind also that offenders are liberated on probation chiefly on account of previous good character, whereas convicts on licence and persons under police supervision—with whom police officers have also to deal—are released on no such grounds. Therefore, to subject to supervision by the same persons both offenders conditionally released on probation and offenders under police supervision is to imply that both are on the same moral level. And, by leading to confusion between the two classes in the public mind, a police-administered probation system cannot but tend to inflict on probationers just the stigma that it is one of the objects of the system to avoid. In a Memorandum circulated by the Home

Office when the Probation Act came into operation, it was said that the influence for good which other persons "will be able to exert on probationers is likely, on the whole, to be stronger than any influence that can be exerted by persons officially connected with the police." The Departmental Committee on the Probation System, which reported in 1909, also concurs in this view.

An interesting departure affecting adult probation—a departure to which we have no English parallel—was made in the State of Colorado in 1909. This consisted of extension of the chancery procedure, referred to on pp. 12–13 above, to certain adult offenders. Chancery procedure was adopted for adult offenders as a result of ten years' experience of its results in juvenile cases. The proceeding somewhat resembles our methods in regard to lunatics and habitual drunkards. That is, it shows the State as *parens patriæ*, as over-parent, dealing with certain of its weaker members—adult misdemeanants, in this connection—according to the treatment they need, rather than the punishment they deserve.

Chancery procedure in adult cases is at present confined to misdemeanours — drunkenness, failure to support wife or children, minor assaults, and so forth, together with certain cases of petty theft— these being the offences for which probation is chiefly used. Offenders are brought before the Chancery Court by summons, instead of by warrant. Attached to the summons is a petition, headed " The People in the interest of ——" (naming the person summoned). The defendant is not charged with an offence; the petition tells in simple language of the defendant's home life, environment, record, and such other things, both for and against him, as the inquiry upon which the petition is based has shown to be important; and concludes with a recommendation that, in the interests of the State, as well as of the offender, the court take action. At the time of hearing, or at any time before, the offender may, if he so desires, have the case dismissed from the Chancery Court, and heard as a criminal case. If, however, he agrees to have it dealt with by the Chancery Court, he is told

that he may admit the facts, or any part of them, or be questioned, and even required to testify against himself, but that he will not be found guilty of any crime, or sent to prison, but will be required to give a personal pledge or bond to refrain from the repetition or commission of any improper or unlawful act, and to consent to such reasonable conditions and terms of probation as are permitted by law to be imposed by the court. Any violation of the terms of probation is declared to be contempt of court, and is dealt with accordingly, except that no penalty inflicted by the Chancery Court may exceed the maximum penalty authorised by the criminal law for that particular offence.

One object of not charging the offender with any definitely unlawful act, and of telling him he will not be sent to prison, is to reduce the likelihood of perjury, and thereby to make easier the subsequent efforts of the probation officer on his behalf. Chancery procedure assumes the offenders with whom it deals are of weak (as distinct from bad) character, and that

to expect such weaklings to tell the truth, when committal to prison may be the outcome of it, is to credit them with moral strength greater than they possess. By letting it be understood that the only object of the court is to restore them to a normal place in society, and that no question of punishment as such figures in the case at all, fear disappears, and with it the incentive to lie.

In assuming this attitude toward this special class of offenders, it is urged that the Chancery Court is at least logical. Magistrates in ordinary criminal courts know well enough that they have often to apply normal methods to sub-normal offenders, and that the absence of judicial procedure to meet this sub-normal class obliges the magistrates to ignore the difference, the result being they are treated for what they should be, instead of for what they are. Under chancery procedure this difficulty is overcome. The Chancery Court, by avoiding placing upon the offender a strain greater than his moral strength can withstand, avoids also, among other things,

the risk of his adding perjury to whatever other offence he may have committed.

From the standpoint of probation, this question of perjury has peculiar importance, for, by creating conditions whereby the culprit is induced to make a clean breast of his offence, the way is paved for securing his confidence. And, once he is persuaded to confide in the magistrate or probation officer, he becomes more receptive to their subsequent advances on his behalf.

Comparison between adult and juvenile probation in England is, as yet, impossible ; for though the Home Office receives yearly returns, showing the results of all probation cases, no figures have so far been published. Since, however, England has had but six years' experience of statutory probation, the figures would be far from conclusive, even were they available. And though American experience of the system is so much greater than our own, there is no understanding between the various States as to the making of returns, and consequently comparison is impossible, except on very broad lines.

During the twelve years 1900—1911 adult probation spread in America from three States to twenty-three. This progress, though great, compares unfavourably with the growth of juvenile probation, which during the same period was adopted in forty-three States. Many reasons are advanced to account for this, chief among them being that juvenile offenders are thought to offer more hope of reformation than adults, and that the release of juveniles on probation exposes society to less risk. In some cases, also, where both adult and juvenile probation systems are established, the jurisdiction of the juvenile courts has been transferred from criminal courts to chancery courts, and thus, it is urged, the more attractive features of child-reform work in chancery courts have withdrawn the interest of social workers from the criminal courts and their problems. It is suggested, too, that adult probation is retarded by "public impatience with adult crime" [1] and "the traditional fear

[1] National Probation Association, N.Y., Report on Adult Probation.

of making punishment easy." [1] In arriving at a correct judgment upon the question of adult probation, it should be remembered that it has statutory existence in England and in one-half the States in the American Union, and that in no single instance has such a statute, once passed, been repealed.

Since its origin in 1878, probation has been adopted, in varying forms, in the British Colonies and the chief countries of Europe.

[1] National Probation Association, N.Y., Report on Adult Probation.

THE SELECTION OF PROBATION CASES

CHAPTER II

THE SELECTION OF PROBATION CASES

In selecting offenders for release on probation, two purposes are kept in view, viz., protection of the community and reclamation of the offender. These purposes are fulfilled only when probation is applied to offenders not confirmed in criminal habits. The chief points on which knowledge is needful in determining the suitability or otherwise of probation have to do with the "character, antecedents, age, health, or mental condition of the person charged, . . . the trivial nature of the offence, or . . . the extenuating circumstances under which the offence was committed."[1] It is obvious that no hard and fast rules can be laid down on any of these points, least of all on those bearing on the offence.

The Offence.—Attention is given to the

[1] Probation of Offenders Act, 1907, section 1 (1).

nature of the offence, and to the circumstances in which it was committed.

As to the offence itself, experienced probation workers are generally agreed that premeditated assaults for revenge or gain, criminal assaults on females, and crimes resulting in the corruption of children are altogether outside the scope of the probation system. Probation is also discountenanced in cases of habitual drunkenness and professional prostitution long continued.

Property Offences.—The crimes for which probation is most extensively used are offences against property, such as theft and embezzlement. The chief points to be considered are the duration of the offence—*e.g.*, whether it is an isolated act, or whether it is one of a series extending over a considerable period of time—and the relationship subsisting between offender and prosecutor at the time the offence was committed; *e.g.*, if a railway employee were proved guilty of theft, it would be necessary to consider from whom the theft was committed—whether from the company itself, or, say, from a fellow employee.

As shown in the previous chapter, English courts may place adults on probation for property offences, whatever their magnitude, providing it is expedient to do so, whereas in some American States certain offences are excluded from probation. Many of these excluded offences relate to property. Some States forbid probation where the offence involves property values above a specified sum ; others schedule the crimes for which probation must not be used. An example of the former is the State of Illinois, where an adult cannot be placed on probation if his offence involves two hundred dollars in money or other property ; an example of the latter is Rhode Island, which forbids probation in cases of robbery, burglary and arson.

Despite the recent tendency to limit the scope of probation, those States which permit its unrestricted use are said to show results in serious cases only slightly inferior to the results obtained in minor offences. Also, probation officers in the unrestricted States report that, in most instances, the very fact that the offence is serious, and

carries serious penalties, has a strong influence in keeping probationed offenders within the law. Published results confirm this view. For example :—

> " In Erie County, N.Y., which includes the City of Buffalo, 45 per cent. of all adult felons disposed of by the courts have been placed on probation during the last two years, and at least 75 per cent. of these have shown improvement, and have never come back to the criminal courts." [1]

A common objection to probation, urged chiefly against its application in property offences, is that it exercises very little, if any, deterrent effect upon others. Take the case of a shop-assistant, engaged at an establishment employing hundreds of other assistants, who pilfers from his master ; or the railwayman who steals goods in course of transit : to " let these offenders off under the Probation Act," as one magistrate phrases it, is said to create an impression among the firm's other employees that pilfering may be done with impunity. Criticism of probation along these lines is easily understandable, but it ignores two

[1] National Probation Association, N.Y., Adult Probation Report (1912).

important points. In the first place, it assumes there can be no deterrence unless some direct penalty, such as a heavy fine or a sentence of imprisonment, is inflicted on the wrong-doer. This is not so. Any penalty which the court can inflict on offenders of the social grade of these is far less serious to them than the penalty they suffer by loss of employment and loss of references, to say nothing of the ostracism imposed upon them by the circles in which they move. These facts are likely to be as well known to the offender's workmates as they are to him. Secondly, it is just a question whether the deterrent element is so completely absent from the Probation Act itself as these critics appear to believe. Section 1, sub-section (3), of the Act of 1907 provides that the court may, in addition to making an order requiring the offender to enter into a recognisance to be of good behaviour, order him " to pay such damages for injury or compensation for loss . . . and to pay such costs of the proceedings as the court thinks reasonable." This clause, it must be admitted, is seldom observed by

magistrates, though why not is not at all clear.[1] If the courts would promptly order reclaimable thieves to restore the cash value of the goods stolen, they would thereby adopt a form of deterrence at once saner and more effectual than that attained by fining or gaoling. The writer has had a number of probation cases in which orders to pay costs and damages or compensation were made, and in every one the culprit has expressed the wish that instead of his being placed on probation and ordered to pay compensation, he had been sentenced to a term of imprisonment. They guessed the term would be short, and wished to get the affair over and done with, presumably. And since through loss of their situations and loss of character their prospects for the time were blighted, the attitude of mind revealed by such a wish is understandable—though scarcely to be fostered by an institution such as a police court, which has for one of its objects the diminution of habitual crime.

The practice of requiring compensation

[1] Probably one reason is that such sums in default of distress are recoverable as civil debts only. The Criminal Justice Administration Bill, clause 25, remedies this defect.

from an offender, as part of the price of his freedom, has other advantages. It is an act of justice to the complainant that he should have his loss repaired, it has an excellent moral effect on the offender himself, and, since so great a proportion of crimes consists of crimes against property, the method opens a wide sphere of usefulness to the probation system.

Drunkenness.—Probation has proved of value in certain kinds of drunkenness. Habitual drunkenness tends to be considered a medical problem, and probation is not thought to be suitable to it. Records show, however, many offenders in whom the habit is not fixed, and it is to these probation is chiefly applied.

Domestic Relations Cases.—The application of probation to men who abscond from, or otherwise refuse to support, their families has been much used in some courts, both in England and America, notably in Buffalo, N.Y., where the first " Domestic Relations Court " was set up. Offenders of this kind appear, from results, to be specially amenable to probationary treatment. The prac-

tice of the Buffalo Court is to place them on probation in the first instance for six months subject to continuations as necessary. The offenders are required either to pay over their wages to their wives each week, through the probation office, or to pay a stipulated weekly amount. Non-payment is regarded as breach of the probation conditions, and punished as such.

Street Offences.—Many youths come before the courts charged with trespassing on railway stations (in order to secure porterage), jostling, obstruction, shouting newspapers, and like offences. Results show that these offenders often do remarkably well on probation if taken in hand sufficiently early, the provision of regular employment, food and lodgings till the first week's wages are received, and wholesome interests to occupy their leisure time, being the chief things needful to keep them out of trouble.

Gambling.—Street-corner gambling, and offences of like degree, are sometimes regarded as not sufficiently important for probationary treatment. Inquiry into these cases, however, frequently shows the offence

to be but a symptom of conditions quite unfavourable to healthy citizenship—conditions which the probation officer may do much to remedy.[1]

Record.—The court having decided that probation is expedient so far as the offence is concerned, will still require to know the salient facts of the offender's record and environment before finally deciding to release him on probation. His police record is available, of course, immediately the court decides his guilt ; but, if the court be that of a large city, it may be that his whole

[1] It is unfortunate that American State reports rarely show the results of probation in relation to specific offences, or groups of offences. The following statement is based on adult probation results in Birmingham ; the duration of probation was twelve months in each case :

Group I.—Cases of simple larceny, larceny as servant, larceny from the person, larceny as bailee, illegal pawning, false pretences, embezzlement, and felonious receiving : of 198 such cases, 156 were discharged as satisfactory, and 42 as unsatisfactory.

Group II.—Cases of drunkenness, drunk and disorderly, drunk on licensed premises, drunk in charge of child : of 52 such cases, 31 were satisfactory and 21 unsatisfactory.

Group III.—Cases of street-corner gambling (chiefly "pitch and toss") : of 103 cases, 84 were satisfactory and 19 unsatisfactory.

Group IV.—Cases of jostling, obstruction, shouting newspapers, trespassing on railway stations : of 21 cases 10 were satisfactory and 11 unsatisfactory.

Group V.—Cases of soliciting prostitution and acts of indecency : of 18 cases, 11 were satisfactory and 7 unsatisfactory.

police record will not be forthcoming. That is to say, in urban centres, to the courts of which offenders are brought by the two processes of written summons and summary arrest, the administration of the summoning department is more or less distinct from that of the lock-up. Each keeps its own set of records, but neither exchanges with the other. This absence of co-ordination affects the selection of probationers in this way, that, if the offender appears "on summons," the only police record offered to the magistrates will be that based on previous offences for which he has been summoned: no mention will be made of the number of times he has been summarily arrested; and, conversely, if the offender appears "on lock-up," no mention will be made of the times he has appeared on summons. In either case, therefore, the record will be incomplete.

Even if the police record is complete, however, the item or items which it contains will require very careful scrutiny. For example, the record of a child may show that it has appeared, say, three times before

the court ; yet the whole record may mean nothing more criminal than three charges of football in the public street. Similarly with graver charges. The lad who steals apples from his mother's store is cuffed, perhaps, and dubbed a rascal ("After all, boys will be boys !") ; but if he steals them from a neighbour's garden, and is brought to court for it, he is a felon. And if this lad should come before the court on any subsequent occasion, his record will show : "Date——. Felony, probation for 12 months," or whatever the magistrate's decision happened to be. Thus, when one is considering police records, it is necessary to approach each item very closely. Otherwise, it may be impossible to see the actual offences for legal terminology.

The police record may be so bad as of itself to negative the idea of probation. Unless this is so, however, it will need to be supplemented by independent inquiry at the offender's home, school, or—possibly—place of employment.

In many English courts, no inquiry of this kind is made, and needless risks are run

as a consequence. First, there is the risk of releasing unsuitable offenders on probation. The offence itself may suggest probation, but experience shows that suitability in the offence, even when supplemented by a favourable police record—that is, by no record at all—is often negatived by unsuitability in the general character or environment of the offender. For example, here is the case of a boy, age 10, arrested for theft ; a tractable lad, apparently, and a first offender. So far as the nature of the offence, and the age and record of the offender are concerned, the case is eminently suitable for probation. It is adjourned for inquiry, however, and it is discovered that the father, a drunkard, has abandoned the family. There are a mother and four children, the lad in question being the eldest. The mother tells the probation officer she works at a restaurant. She is living in two furnished rooms, very small, and each containing a bed. The lad's school teacher reports on the case, and says the mother is not of good character. The probation officer, on looking up the mother's

police record, finds she has been twice convicted of soliciting in the street. She has another woman lodging with her, and they both have men to visit them. The children are permitted to associate with these people. Clearly, to put on probation a child in these circumstances would itself be little short of a crime ; yet, had no inquiry been made, there is no doubt at all, judging only from the " character, antecedents, and age of the person charged, and the trivial nature of the offence," as set forth in the Probation Act, that probation would have been applied.

Here is another case, an adult offender. This man was found guilty of false pretences. He had collected numerous small sums of money by representing himself as the agent of a well-known philanthropic society. He had never previously appeared in court, and for this reason was released on probation, no preliminary inquiry being ordered. Subsequently it was discovered that the man was an associate of habitual thieves, and that at least two previous series of offences, of exactly similar nature, had been condoned.

Absence of preliminary inquiries also increases the risk of the offender absconding. Indeed, it may be almost taken as certain that where the probation returns of any court show a high percentage of absconders, no preliminary inquiry is required by that court. It would be strange if the case were otherwise, for no matter how humanitarian the magistrate knows his own intentions to be, prisoners are prisoners, and the information they give about themselves, and the promises they make, will be just such as are best calculated to lead to their release from custody. And though the court may not expect to meet with craft and lying from prospective probationers to the same extent as from other prisoners, yet it will meet with these things to some extent, and they will have to be guarded against, even though it be necessary to hold each offender in custody until his statements—particularly his name and address, and a few other elementary facts of his antecedents and surroundings—have been verified by the probation officer. False names and addresses are too commonly given by offenders, and usually with

very good reason. It is not so much the innocent first offender who is constrained to hide his identity and whereabouts through fright or shame, as the hardened offender, to whom a false name is equivalent to a clean police record, and a false address to a clean pair of heels, once his "conditional" release on probation becomes an accomplished fact.

It will thus be seen that, so far from the preliminary inquiry being a desirable proceeding merely, it is a proceeding which the very nature of the probation system makes essential. If probation is to be confined to suitable offenders—*i.e.*, to reclaimable offenders whose liberation imposes no undue risk on the community—it is imperative that the magistrate shall possess more knowledge of the offender—his private character, domestic surroundings, employment record, associates and habits—than can possibly be gathered during a brief police-court hearing. Such inquiry takes time, however, and, in courts of summary jurisdiction, at any rate, it is the difficulty of finding time for the inquiry that so often causes its omission.

In the ordinary police-court case, the only opportunity for learning the character of a prisoner is the interval that elapses between his arrest and trial, and this is far too short for the purpose. With a view to overcoming the difficulty, it is the practice of courts making extensive use of probation, and especially when the offender is an adult, to remand for a few days *all* prospective probationers, to give the probation officer time to collect adequate information about them.

The preliminary inquiry has nothing to do with the guilt or innocence of accused persons. Its purpose is to supply to the magistrate, *after* guilt has been proved—if innocence is proved, need for inquiry ceases—such information concerning the offender as will help in determining whether he should be released on probation, or disposed of otherwise. Although the inquiry does not concern itself with the question whether a defendant has or has not committed the offence alleged against him, it may take account of, and report on, any extenuating or aggravating cir-

cumstances surrounding the offence, when this can be done without infringing the rights of the defendant.

The preliminary inquiry consists of interviews with the offender, investigations of home conditions, consideration of school records in the case of children, and of employment records in the case of adults. The inquiry will show, also, what neighbourhood influences may assist or retard future good conduct, and, particularly, what social or religious agencies could be called upon to co-operate in the offender's reclamation.

The investigator will probably find helpful some form of *questionnaire*, such as that given below. He will not, of course, need to ask all of the questions in the schedule. He will regard it merely as a number of possible routes along which the inquiry may go. If he goes to a good home, he will use discretion, and refrain from questions to which, in a home of lower type, he would be obliged to procure answers. And although for convenience the questions are given below in schedule form, it will be almost always necessary to depart

from the schedule in order to track down the special points which each case exhibits. The inquirer's purpose is not to procure a lot of nicely tabulated information, merely ; it is to secure facts which may help the magistrate to a decision, and on which he can begin work. And, to this end, he will not set out to collect data common to every family in the district ; on the contrary, he will seek out those points on which the particular family he is dealing with differs from other families. If the inquirer can do it, he will find it much better to get his facts in general conversation, instead of in direct catechising. In any case, he will need to be on his guard against " leading " his questions. People will generally say what they think the inquirer wishes to hear ; and precautions will need to be taken against this. Again, the accuracy and worth of the data he obtains will be just as great as the inquirer's sympathy with, and understanding of, the people from whom he seeks it deserve. If he will try to put himself in their place, and to see what he would say and do in

similar circumstances, what kind of "front" he would present to such an inquirer, the effort will assist him enormously. Finally, in inquiring into the offences of children, the inquirer will feel tempted to hark back to his own childhood. It is a practice to be encouraged. If the inquirer can succeed in recalling something of what he was at the offender's age—not what he should have been, be it said, but what he actually was—he will most likely gain a valuable insight into the child's mind, and so the better understand its actions. The *questionnaire* is as follows :—

RECORD :

Court.—Previous convictions : offences (times summarily arrested, times summoned) : penalties (fine or gaol : if fined, did he pay, or go to gaol in default ?). Previously on probation ? (Give approximate dates.)

Home.—Previous offences condoned ? (Give their nature, and length of time ago.)

OFFENCE :

Nature and circumstances : co-defendants (if any) with their records (the purpose of this is to show whether the present offender was made a "tool" of by some older or more hardened criminal). If the offender be a child, was any adult, parent or other, contributory to his delinquency ? If so, how did the child come to know the adult ?

HABITS :

How does the offender spend his leisure ? Amusements, sports, reading (member of library ?), music-halls (of what type), picture-house, public-houses, coffee-houses ?

Associates.—Have companions appeared in court? Does offender belong to a " gang," or a boys' or social club, or settlement ? If the offender be a girl or youth, does she or he keep company with opposite sex ? do they frequent public-houses together, or other places where liquor is sold ?

Tobacco, drink, drugs (if the offender is adult, has he ever received treatment for drink or drug habit ?).

Gambling (horse-racing, football coupon betting, sweepstakes, pitch-and-toss, banker, etc.).

Sex habits : masturbation, immorality, prostitution ?

Will-power, easily led ? (Does offender make companions of persons younger than himself ?) Self-control (hasty or even temper ?).

Selfish, honest, conscientious, social, secretive, irritable, vain, affectionate, vicious, untruthful, energetic or lazy, careful or careless, untidy, disobedient, mischievous (if a child).

If offender is a child, has he ever absconded from, or been driven from, his parents' home, or slept out ? (If so, give approximate dates.)

PHYSICAL AND MENTAL CONDITION :

Heredity.—Epilepsy, feeble- or weak- mindedness, insanity, chronic alcoholism ?

Health.—General condition and appearance, particularly in relation to employment ?

Physical defects.—Eyes, ears, nose, throat, teeth (adenoids, enlarged tonsils, etc.).

Diseases.—Skin, venereal, tuberculosis (if a child, small-pox, diphtheria, scarlet fever, mumps, measles, whooping cough ?).

Temporary ailments, permanent impairments ?
Mental development and condition.

HOME :

Parents.—Living together or separated ? If offender is a child, does he live with his parents ; if not, with whom ? If offender is an adult, is he married, single, separated ; living with family, with whom else ; or alone, or in lodging-house ?

Father.—Occupation, wages. Ever deserted or failed to support family ? Stepfather ? Father (or stepfather) ever convicted ? Has he proper control over children ?

Mother.—Does she go out to work ? if so, are children in proper care ; for how many hours daily are they without proper care ? Stepmother ? Mother (or stepmother) ever convicted ? Has she proper control over children ?

Children.—Legitimate or illegitimate ? number, ages, occupations. Are they living at home, or married ; or in industrial or reformatory schools, or charitable homes, or asylums ? Have any of the children been convicted ?

Financial Condition of Home.—Money going into it : from father, mother, children, lodgers, other sources ; charitable aid.

Type of Dwelling.—If in a court-yard, whether closed or open to street ? if a flat, what floor ? number of rooms, rent (weekly), number of persons in house ; lodgers, their occupations (whether convicted thieves or prostitutes ?). If offender is a child, with whom does he share his bedroom ? Sanitation and general appearance of home (bearing in mind its financial condition and the type of dwelling), moral condition of home. Character of neighbourhood. How long at this address ? Previous addresses (with dates).

EDUCATION :

School : standard, attendance, conduct, scholarship. Favourite studies ?

EMPLOYMENT :

Trade or customary employment, occupation now followed ?

Employer (with address), how long there, wages ? Ever worked for this employer before ?

Previous employers, how long with each, how long unemployed between each engagement, how did he secure a livelihood during these intervals ?

If offender is a child, is he, or has he been, a street-trader ? Hours of work, and whether in addition to school attendance.

RELIGIOUS OR SOCIAL ORGANISATIONS :

Faith : Church or other institution attended. If not at present attending anywhere, place last attended, how long ago, why attendance ceased. Pastor or other person to whom offender is known. If offender is a child what Sunday school, name and address of teacher ? Member of boys' club or settlement ? Boy scouts ?

The information furnished by the preliminary inquiry should be sufficient to answer three principal questions :

(*a*) Do the offender's character and antecedents show him unmistakably and fixedly depraved, or do they indicate but a tendency to depravity ?

(*b*) Does the offender, having regard to his disposition and to the surroundings

in which he lives, afford reasonable promise of becoming law-abiding ?

(*c*) If, owing to his present disposition or his present surroundings, or to other circumstances, this cannot reasonably be hoped of him, can such changes be effected through the agency of probation, as to make it reasonably probable that he will become law-abiding ?

Inquiry into the antecedents of offenders sometimes shows that persons arrested for minor offences are in the habit of committing more serious offences ; and, conversely, other persons, guilty of serious crime, prove normally of good character. Thus the inquiry may show the offender to be too hopeless for probation, it may show that probation might benefit him, or it may show he does not need it at all. In this last connection, it should be pointed out that, occasionally, persons are brought to court, on serious as well as minor charges, to whom the shame of appearing publicly is of itself sufficient to ensure future good conduct. To these, the ministrations offered through probation are unnecessary

and may, indeed, be positively harmful, the visits of even the most tactful of probation officers serving only to recall a lapse unlikely to recur. Moreover, placing such offenders on probation has a misleading effect on probation figures. It tends to make the system appear more successful than it really is.

The foregoing discussion of the need for preliminary inquiries has particular reference to adult offenders, the grounds upon which inquiries are urged in adult cases having chiefly to do with the expediency of probation from the standpoint of social protection. With juvenile offenders the question of social protection is scarcely so pronounced, there being less immediate risk in releasing children than in releasing adults. There is equally great need of preliminary inquiries in juvenile cases, however, for a different set of reasons, viz., the magistrates must be put in possession of the full facts before they are in a position to say whether a child shall be released on probation, committed to a reformatory of industrial school, or dealt with otherwise.

And, bearing in mind that power to commit to industrial schools ceases when the child reaches fourteen, and to reformatory schools when he reaches sixteen, the release on probation of children nearing either of these ages needs to be very carefully watched. Further, if the child eventually has to enter a certified school, it is necessary that he shall be committed before his habits are fully formed, and while he is yet amenable to discipline.

A point in this connection is raised by the Departmental Committee on Industrial and Reformatory Schools Report (1913), viz., that certain courts release juvenile offenders on probation, not because probation is the fittest method, but because it is a cheaper method than committal to an industrial or reformatory school. The Committee says :—

> "We have received striking evidence from superintendents to the effect that their work has been rendered more difficult by an unwise use of the Probation Act. There has always been a tendency in certain districts for the Justices, who are often leading members of the local authority, to consider when dealing with cases the effect on the rates of the expense of com-

> mittals to certified schools. This tendency, it is said, has been aggravated by the fact that probation affords an easy way of disposing of a case without expense to the locality."[1]

How prevalent the above-mentioned tendency is, one has, of course, but limited means of determining. Clearly, however, whichever method be selected, the motive governing the selection should be fitness, and not cheapness. No doubt the Probation Act will operate to reduce unnecessary commitment to reformatory and industrial schools of juvenile offenders, just as it reduces unnecessary commitment to gaol of adult offenders. It is one of the chief purposes of probation to separate those who need institutional treatment from those who do not. But how greatly commitments are reduced will depend, partly on how great a number of children have been committed needlessly to reformatory and industrial schools in the past, and partly on the wisdom with which the probation system itself is administered. Meanwhile, one may perhaps point out, on the one

[1] Departmental Committee on Reformatory and Industrial Schools: Report, Chap. XXV., p. 64.

hand, that financial considerations emphatically should not be admitted as factors governing the selection of probation cases, and, on the other, that the superintendents of certified schools are parties rather too interested to be critically impartial.

The question of releasing offenders on probation more than once is one upon which information is badly needed. In the few cases that have come within the writer's personal experience, the second term of probation has invariably resulted in reconviction, and this whether the first period was completed satisfactorily or not. Whether probation is applied more than once to any given offender will probably depend on the nature of each offence, and on a full knowledge—fuller than that gained from police records—of what each offence represents. But with this, as with most other questions of probation administration, each case must be decided on its merits.

To one category of offences, those incidental to juvenile street-trading, second or even third periods of probation may be found expedient. The children and youths

engaged in these occupations are continually in danger of transgressing the law—unwittingly, very often. To sell his papers a newsboy must let people know he has papers to sell : he must, that is, adopt a primitive form of advertising which renders him liable to the charge of being "disorderly by shouting." And since, in itself, the offence is slight, and since we have nothing by way of penalty between probation and gaol—for these lads cannot pay fines—little can be urged against repeated terms of probation for this and kindred offences. Indeed, a good case could be made out for placing street vendors on probation for as long as they continue so employed. It may be objected, of course, that where such a lad has been already on probation, he has had one chance of reclamation, and has made nothing of it—this last being inferred because he is again found on the streets. The inference may be true, or it may not. The lad may be filling in the gap between one situation and another by street-vending, or he may have continued so employed

during the whole period under review. In either case, street-trading itself is not an offence. It is an occupation countenanced, in its wisdom, by the law. Certainly, it is an occupation which, from its nature, cannot be followed without danger of conflict with the police, and no doubt the street-trader is at fault in undertaking so risky a calling ; but then, if he were capable of estimating the risk, he would no longer be engaged in street-trading : his wits would have lifted him above it ! The street-trader knows only the things immediately concerning him, namely, that the law permits him to sell, and that the public is willing to buy. Therefore, so long as the public continues uneducated in the evils of street-trading, the law, through probation, may very well regulate what it has no mind to abolish.

THE PROBATION OFFICER—I

CHAPTER III

THE PROBATION OFFICER—I

THE factors of efficient probation are three in number, viz., suitable cases, qualified probation officers, and the prompt return to court of offenders who violate the conditions of probation. Of these three factors the question of probation officers is of most importance.

The State Probation Commission of Massachusetts, in its Report for 1909, says:—

> " . . . all who are conversant with the practical working of probation are agreed . . . that the probation officer is the keystone of the system. To be a suitable probation officer a man must . . . possess the insight, sympathy and power of leadership that will enable him to understand those placed under his care, to make their difficulties his own, and to lift them up. Above all, he must have the quality of devotion. Probation is paid work, but it is also professional, educational and moral work of a sort that cannot wholly be paid for. No man who is in this work for the pay alone is worth his pay, or should be so employed."

The Secretary of the New York State Probation Commission, Mr. Arthur W. Towne, says :—

> " Those who act as probation officers should be intelligent, devoted, firm, sympathetic, tactful, discreet, observant, energetic and resourceful. This is demanding a great deal, but it is the price of success."

The Departmental Committee on the English Probation of Offenders Act, 1907, reported :—

> " The value of probation must necessarily depend on the efficiency of the probation officer. It is a system in which rules are comparatively unimportant and personality is everything. The probation officer must be a picked man or woman, endowed not only with intelligence and zeal, but in a high degree with sympathy, tact and firmness. On his or her individuality the success or failure of the system depends. Probation is what the officer makes it."

The standard here set up is necessarily high, but it is not so high as to be unattainable : " Any good man or woman . . . who can be firm and yet kind, may develop into a good probation officer." [1]

The emphasis laid on the importance of personality in probation work has tended to

[1] Mr. Ben B. Lindsey, " Juvenile Court Laws," p. 8.

obscure the necessity for special training. Given the right kind of man, it is possible for him to do good probation work, even though possessed of no special knowledge. But since the best probation work does necessitate special knowledge, and a peculiar skill in dealing with people, no man lacking such knowledge and skill can hope to do quite the best work ; nor can he take his own share in improving the work by contributing to its technique. Besides character and personality, therefore, probation officers are required to satisfy specific demands as to age, education, training and experience.

Age.—There are two chief points to bear in mind in regard to age. First, in order that probation officers may exert the requisite force and vigour, and sustain the physical demands of the work, it is imperative that they shall not be too old. This point needs to be emphasised, because the probation service, in England as well as abroad, is too often recruited from persons too old for other work. Secondly, to command the necessary influence and respect,

probation officers should not be too young. Many places in America limit by statute the minimum age of probation officers to twenty-five years. The average age of American probation officers is said to be just under forty years, and the present tendency seems to be for the average age to go down.

Education and Training.—While fully admitting that the personality of probation officers is of greater importance than either general educational attainments or specific training, it is found, nevertheless, that the system loses greatly when administered by officers lacking such education and training. An inquiry of about 100 American probation officers showed 30 to be college men, 30 graduates of high schools, and 40 of grammar school standard. Bearing in mind the importance of investigations, and reports of investigations, in probation work, a good grounding in social and economic science could not fail to be useful, chiefly on account of the habit of mind which such studies produce ; and if this were combined with ability to draw up reports clearly and com-

prehensively, and to keep accurate records, so much the better.

So far as can be ascertained, there exist as yet no facilities for the training of probation officers. Mr. Ben B. Lindsey, Judge of the Denver Juvenile Court, suggests that

> "the time will no doubt come when probation officers will be trained after a system somewhat similar to that being adopted in schools of philanthropy for the training of philanthropic workers, or in a normal school for the training of teachers."

As the system expands in England, and the demand for probation officers increases, it may be found possible to modify the Social Study Courses already possessed by most of the newer universities, to meet their special needs.

Experience.—An inquiry showed that less than 40 per cent. of American probation officers possessed experience of social work prior to appointment. This proportion is, of course, unduly low, but is probably explainable by the comparative newness of probation work. It should be pointed out, however, in justice alike to the community and to the offender, probation officers

should at least have some practical knowledge and experience of social conditions in the class with whom they will mainly have to deal, that they may understand the problems presented by the cases they take in hand. It is not fair to permit the officer to gain his experience, either at the expense of his charges on the one hand, or of the community on the other.

Personality.—Of greater importance than age, education, training or experience of probation officers, are their personality and temperament. These personal qualities are thus set out in a report of the American Institute of Criminal Law and Criminology :—

> "The ideal probation officer should possess sound judgment, tact, patience and zeal in the work, the ability to read human nature, sufficient adaptability to appreciate and make due allowance for varying results of temperament, history and environment. He should be one who knows how to lead rather than drive, but who can drive effectually if need be. He should understand the influences that determine human character and conduct for good and ill, as well as methods of moulding character, and how to apply them. And, above all, he should have a love for the work." [1]

[1] Report on Adult Probation, p. 2.

The probation officer should be of good physique, the work of supervision involving long and irregular hours, and much travelling in all kinds of weather. Actual physical defects in probation officers, besides rendering supervision more difficult, are said of themselves to militate against successful probation work.

> " In this connection, it is obvious that persons with physical infirmities, of unprepossessing appearance, who are untidy or ill-mannered, or who otherwise repel on first appearance, should never be considered for this public service." [1]

The kind of man indicated above as desirable for probation work would appear completely to exclude police officers. The extraordinarily rapid growth of probation, however, greatly outstripped the supply of men suitable for probation officers ; and this, together with gross misconceptions which prevailed in high quarters of the essential ideas of probation, and the fact that the repressive side of probation was the easiest to put into operation, led to many police officers being detailed for

[1] Mr. Roger N. Baldwin, Chief Probation Officer, St. Louis, N.Y.

probation work. And the fact that policemen have acted, and indeed are acting, as probation officers, tends to perpetuate the confusion, both in the minds of police-court officials and of the public, and makes the work of probation officers unconnected with the police more difficult than otherwise it would be.

The chief thing to be said against police-probation officers, as such, is that the training and mental attitude necessary to efficient police service is absolutely opposed to that necessary to efficient probation work. Moreover, even

> "if a policeman happens to be personally fitted to act as probation officer, it is likely, and especially with children, that the fact of his being a policeman will make his probationers dislike to have him visit their homes, etc., and will make it difficult for him to establish the friendly relationship needed." [1]

The probation system may be administered by officers of four kinds: (*a*) those who work on a purely voluntary basis, who receive no compensation for their services whatever; (*b*) officers who receive no

[1] New York State Probation Commission: Second Annual Report, p. 39.

recompense from public funds, but receive salaries from charitable societies ; (*c*) officers, both voluntary and privately salaried, who work under the direction of a publicly-paid probation officer ; (*d*) officers directly paid from public funds.

Probation systems administered wholly by voluntary officers are now of little more than historical interest. Experience has shown that such systems lack the continuity of effort necessary to success. The probation system needs well-organised, uninterrupted work, and its demands are found to be too great to impose wholly on voluntary workers.

> " Wherever probation work has been developed to any considerable extent, it has uniformly been found essential to provide paid service in addition to whatever volunteer service is available." [1]

Probation officers salaried by private charitable agencies have done excellent work in the past. It is largely owing to them that the probation system has attained even its present stage of development. Where the system is in extensive use,

[1] New York State Temporary Probation Commission : Report, p. 74.

however, privately-salaried officers are to be objected to, in that they are not fully responsible to the court, and that the court is not sufficiently free to dispose of the time of such officers or to discipline them.

The practice of having a publicly-paid chief probation officer to secure volunteers, and organise and direct their work, is one which works very well in some States, notably in Indiana. With a probation service on this basis, however, it is still found that as the system expands enthusiasm too often subsides. Moreover, as with all voluntary officers, the feeling that the court is placing itself under obligation to them tends to render its direction and control of such officers less exacting than efficiency demands.

In the majority of places having large urban populations the tendency is to allow the work of voluntary probation officers to supplement only the work of officers directly appointed and paid by public authorities. Therefore, since the success or failure of probation depends so greatly on the publicly-paid probation officer, the

important point is as to how these officers shall be selected.

In England, probation officers are appointed under section 3 (1) of the Probation of Offenders Act, 1907, which reads :—

> " There may be appointed as probation officer or officers for a petty sessional division such person or persons of either sex as the authority having power to appoint a clerk to the justices of that division may determine, and a probation officer when acting under a probation order shall be subject to the control of petty sessional courts for the division for which he is so appointed."

Thus the selection of probation officers under the English Probation Act is left to the discretion of the justices.

American probation officers are selected in three ways. In some States, Massachusetts, for example, the court or magistrate is given unrestricted authority to appoint, as in England ; in other States, as Colorado, such authority is vested in the court, subject to approval by a central authority ; in others, again, the appointment is made by a magistrate, or board of magistrates, from an eligible list established by open competitive examination.

This last method is rapidly gaining favour, and merits detailed consideration.

COMPETITIVE EXAMINATIONS FOR PROBATION OFFICERS.

The objects of competitive examinations for probation officers are to discover such persons as have the temperament and qualifications for the work, to secure that those who take up the work do not do so merely for the sake of the salary, and to keep the appointments free from personal and political influence.

The principal qualities of probation officers—personality and temperament, force of character—obviously cannot be assessed by a written test. On the other hand, many qualities necessary to successful probation work, such, for example, as whether the candidate satisfies the minimum requirements as to education and mental ability, and what of resourcefulness, judgment and common sense he shows in dealing with hypothetical cases,—these can be tested better by written examination than by any other means.

Recognition of these two facts—that the chief qualities required of probation officers cannot be discovered by written examination, but that certain less needful, but still important qualities can be revealed only by written test—has led to probation officers' examinations becoming partly oral and partly written.

The first examination for probation officers was conducted in 1905 in Chicago, Ill. This was an entirely written test, but was carried through with the assistance of such experienced social students as Miss Jane Addams, Judge R. S. Tuttle, Justice T. D. Hurley and Mr. W. B. Moulton. The questions were chiefly framed to test the candidates' judgment and resourcefulness, and dealt largely with hypothetical cases. The example of Chicago was followed in 1906 by New York City.

Oral tests were first introduced in 1907, at the instance of Mr. Homer Folks, President of the New York State Probation Commission. Mr. Folks allowed 50 per cent. for answers to questions on the duties of the position, 25 per cent. for experience,

and 25 per cent. for personal qualifications to be tested orally.

Examinations for probation officers have since been conducted in many other States. The percentages for written work have varied from 30 to 50, for experience from 20 to 40, and for personality from 25 to 40. In some examinations, 50 per cent. has been allowed for written technical work, and 50 per cent. for oral test of experience and personality combined.

Since the result of a written examination depends largely on ability to commit thoughts to paper, and in view of the possibility that persons otherwise qualified for probation work may lack this facility of expression, the pass mark for the written test is now made correspondingly low, 50 per cent. being about the average.

In framing the written examination, questions on legal technicalities are largely avoided, the object being rather to test common sense, tact, sympathy and resourcefulness by setting questions relating to fictitious cases.

The following are questions from examina-

tion papers and may be taken as representative :—

"Assume that a 13-year-old boy, convicted of playing baseball on private grounds, is transferred by the court to your probationary care, after being on probation for one month under a volunteer probation officer who reported to the court that the boy failed to report to him as promptly as he required, and who made other criticisms of his conduct. Assume that the boy lives in a three-room apartment in a congested district; that his father, a painter who shows some sign of lead poisoning, is fretful, and has lately been drinking to excess; that the father occasionally sends the boy to a neighbouring saloon for beer; that the mother, who has two other children, is a good housekeeper and fond of her children; that the boy is bright in school, sells newspapers, is a leader among his boy companions, but is inclined to be impudent. State what steps you would take after receiving the boy on probation, and how long you would wish to keep the boy on probation."—(Syracuse, 1910.)

"Assume that in investigating the case of a young man convicted of stealing and pawning an overcoat which belonged to a commercial traveller you receive a report from an anonymous source that the defendant has been arrested before, and you receive also a telephone call from a well-known citizen who states that he has known him very favourably for several years; assume, further, that the defendant has a comfortable home and good parents; that he has been unemployed for about one month; that he has been engaged to be married for about two years; that he has indications of tuberculosis. Assuming any supplementary facts you may desire, state what inquiries you would make, and

whether, in your judgment, the young man should be placed on probation, and, if not, what disposition by the court you would consider desirable Give the reasons for your conclusion."—(Syracuse, 1910.)

"Assume that a 14-year-old girl, living in a lodging house where her mother is employed as a cook, is convicted of stealing a mask on Hallowe'en Day; that the father, who died last year, left the mother 1,000 dols. insurance; that the girl is large of her age, and goes a great deal with a girl 16 years old; that she has frequent headaches, especially after reading; that she is fond of music; and that her mother declares her to be untruthful. State (*a*) whether in your judgment the girl should be placed on probation, and the reasons for your answer; (*b*) were she to be placed on probation, what sort of person would make the best probation officer; and (*c*) what probationary treatment you would suggest."—(Syracuse, 1910.)

The following questions were set in the written test in an examination in Erie County, N.Y., 1909:—

"1.—Describe the nature and purposes of probation.

"2.—(*a*) What personal qualifications do you deem most important for success in a probation officer? (*b*) Mention matters, qualities or facts which, affecting a probation officer, would be serious impediments to success in such work.

"3.—(*a*) In what cases is probation not allowed by law? (*b*) What is the legal limitation of the term of probation?

"4.—(*a*) What is the legal procedure to terminate probation on account of misbehaviour of

the probationer? (*b*) Describe the legal powers of the probation officer.

"5.—State in detail the duties of a probation officer as you understand them.

"6.—What would you do in each of the following cases of probationers: (*a*) Man, 25, unmarried; slightly defective mentally, convicted of the larceny of ten dollars from employer's till, first arrest; (*b*) Man, 48, able-bodied, but indolent, and out of work most of the time, convicted of burglary in entering and stealing from a freight house, first arrest, wife and child sick; (*c*) Woman, 38, well educated, married, convicted of larceny by shop-lifting, some evidence of previous offences of similar nature, but no previous conviction?

"7.—A. B., a drinking man, was arrested for drunkenness, January 4th, 1908; for assault, December 23rd, 1908. He has a wife and two sons, 10 and 18 years of age respectively. The earnings of the elder son will support the family. What reasons would you present why further probation should be granted or refused in this case? Assume any further facts necessary to a complete answer.

"9.—Mention in detail some methods that would be useful in dealing with adult male probationers, and also different methods that would be more suitable for boys.

"9.—What use could be made of volunteer probation officers; how should they be chosen, and what formalities would be necessary for their appointment?

"10.—What means would you adopt to secure the facts concerning the previous record in other cities of persons charged with crime?

"11.—Two young men, convicted of larceny by taking or withholding money collected by them for their employers, are remanded for sentence, and their cases are referred to you for

investigation before sentence, to determine whether probation is advisable. Assuming all necessary facts, write reports on the two cases, one favourable to suspension of sentence and probation, and the other unfavourable."

Written test set in Rochester, N.Y., Children's Court, for the position of Chief Probation Officer :—

"What do you understand by the term probation ? Describe briefly the system of juvenile probation as now carried on in Rochester.

"Assuming that the judge of the juvenile court has referred to you, as chief probation officer, for investigation, a charge of truancy and ungovernable conduct against a boy of 11 years of age, the charge being made by his father, write a report of your investigation of the case, assuming any facts you desire.

"What are the principal methods by which you would expect to exert a reformatory influence upon children placed on probation under your supervision ?

"Mention some of the agencies in Rochester with which, as probation officer, you would be likely to co-operate, indicating the principal ways in which, in your judgment, their co-operation would be of assistance to you.

"What in your judgment, are the chief causes of juvenile delinquency in Rochester among boys ; also among girls ?

"What are some of the dangers that are likely to develop if the juvenile probation system is inefficiently administered ?

"Assuming that some thirty volunteer probation officers were appointed to serve in the Rochester Juvenile Court, in addition to a

salaried chief probation officer, what, in your judgment, should be the actual work of the volunteers, and what should be their relations to the (*a*) magistrate, (*b*) chief probation officer, and (*c*) children placed on probation ?

" Describe the existing methods of dealing with truancy in Rochester, and state in what way the use of the probation system can assist in overcoming truancy."

Written test set in Oneida County, N.Y., 1910, for the position of County Probation Officer :—

" 1.—(*a*) What is your conception of the nature and purposes of probation ? (*b*) What kind of persons are suitable for probationary treatment ?

" 2.—Describe the history and development of probation in this state.

" 3.—What are the principal provisions of existing law in this state concerning (*a*) the appointment and compensation of county probation officers ; (*b*) the placing of persons on probation, and (*c*) the powers and duties of probation officers ?

" 4.—Describe in brief the chief features of the system of forms furnished by the State Probation Commission to probation officers for preserving case records and reporting cases to the court, or state what forms, in your judgment, should be used.

" 5.—Assume that a young man, 20 years old, in company with two older men, has committed burglary in a freight car ; that although he lives in the city where his parents reside, he has boarded with a married sister for the past year ; that during this period he has run an elevator, driven a grocery wagon, and worked in a mill ; that he is poorly dressed, and that at his trial he

stated that he had never been addicted to drink. Were you to investigate this case, what information would you seek; from what sources would you endeavour to secure it, and what precautions would you observe in making the investigation?

"6.—(*a*) How could volunteer probation officers assist the salaried probation officer in Oneida County; (*b*) what kinds of persons would make desirable volunteer probation officers; and, (*c*) what weaknesses and dangers in the use of volunteer officers are liable to develop?

"7.—What are some of the chief causes of delinquency: (*a*) among boys, and (*b*) among girls? (*c*) Under what circumstances should a boy be committed to a reformatory or training school? (*d*) What are some of the chief causes of the habit of drunkenness among men?

"8.—Assume that a 13-year-old boy in a small town is placed on probation for being an ungovernable child, in that he disobeys his parents; that he has been a truant, and that on one occasion he was implicated with older boys in petty thieving; that he has trouble with his eyes; and that his father works irregularly and is impatient, and his mother—an estimable woman—sometimes works out by the day. Assume any other facts you choose, and tell what probationary measures you would advise in this case.

"9.—Assume that a 28-year-old man is placed on probation for non-support (of his family); that he lives apart from his wife, who lives with her parents; that he has worked considerably at carpentry and farming, but during the past three months has been employed as a porter in an hotel; that he works steadily, except when drinking; that when drunk he abuses his child; and that his wife is an untidy housekeeper and improvident. Assume any other facts in this case, and tell what treatment you would advise.

"10.—Assume that a 14-year-old girl living in a city is placed on probation for petty theft; that her father is dead, and her mother takes boarders, and at times earns additional money by telling fortunes; that the girl is a good scholar at school, especially in drawing, but is frequently kept at home by her mother to help with the housework; that the family lives next door to a telegraph and messenger company, and that the girl formerly attended a Sunday school. Assume any other facts you choose and tell what treatment you would suggest."

Written test set in Buffalo, N.Y., for the position of Juvenile and Adults Probation Officer:—

"1.—(*a*) What is the juvenile court? (*b*) State the present method of handling cases in the juvenile court in Buffalo. (*c*) State any suggestions for the improvement of the present method of handling cases.

"2.—(*a*) What provision is now made for the care of children, pending the disposition of their cases in the juvenile court? (*b*) Give any suggestions for the improvement of this method.

"3.—(*a*) State briefly the essential provisions of the child labour law. (*b*) State briefly the essential provisions of the compulsory education law. (*c*) Tell something about the work of the truant school.

"4.—A boy of fifteen is three grades behind boys of his own age at school, is listless, disobedient and dull, with a tendency to be incorrigible. What things, in your opinion, would tend to bring about this condition.

"5.—Name the corrective institutions for children in Buffalo and vicinity.

"6.—'A' is arrested for intoxication, and

pleads guilty. He has a wife and three minor children, and has steady employment. One month before, he was arrested for the same offence, and was allowed to go on suspended sentence. What discretion has the judge in this case as to the terms of the probation? What would you recommend?

"7.—(*a*) In what respects may probation, properly exercised, be of advantage to juvenile offenders? (*b*) In what respects may probation, properly exercised, be of advantage to adult offenders? (*c*) What benefits will the city derive from a well-administered probation system?

"8.—Outline a plan, in detail, for the organisation and management of a corps of 200 volunteer probation officers.

"9.—(*a*) If directed by the court to investigate and report on a case before trial, what investigation would you make, and to whom would you go for information? (*b*) Write a report to the court covering such a case.

"10.—(*a*) If directed by the court to investigate and report as to the advisability of suspending sentence or placing on probation, in any particular case, what investigation would you make, and to whom would you go for information. (*b*) Write a report to the court covering such a case."

Those candidates only who answer the written questions satisfactorily are allowed to proceed to the oral part of the examination. This practice is found of advantage in eliminating the bulk of the unqualified candidates. Thus, of the seventy-five candidates who attempted the written

paper in the Buffalo examination, just given, only nine received the percentage of marks (50) necessary to entitle them to enter the oral portion.

The rating of candidates for experience covers definite experience of probation work, experience of other social work likely to assist them in the duties of probation, and general training and education. Some examinations require "experience sheets" to be filled up; in others, this kind of information is sought from testimonials and from definite statements on training and experience submitted by candidates themselves. The oral test has often been made to cover the experience of candidates, and other inquiries, in addition to, or instead of, written tests of experience have frequently been made.

The oral examination, lasting from ten to forty minutes, forms the most important feature of the examination. Candidates are interviewed singly, and are questioned somewhat as follows: "Why do you wish to change your occupation and become a probation officer?" "What is your con-

ception of the duties of a probation officer ?" "Why do you think you would succeed at such work ?" "What have you ever done that indicates that you are naturally desirous of helping other persons ?" "Would you be willing to work, if necessary, during evenings and holidays ?" These questions, for which I am indebted to Mr. A. W. Towne, of the New York State Probation Commission, are followed by questions on the candidate's history, habits and interests. The chief object of the examiners is to judge the candidate's presentability, mental endowments, manner, temperament, sincerity, force of character, interests and general aptitude.

A stenographic note is taken of the oral test, and the examiners, independently of each other, rate candidates, either according to their general impressions or according to a fixed schedule. The following is a sample schedule, used in examinations in 1909 and 1910, to assess personality ; the maximum marks were 30 per cent :—

"1.—Presentability, first impression, maximum 5 per cent.

"2.—General interest in the work, humanitarian attitude, maximum 10 per cent.

"3.—Resourcefulness, imagination, sympathy, maximum 5 per cent.

"4.—Persistency, continuity, administration, maximum 5 per cent.

"5.—Judicial attitude, fairness, maximum 5 per cent."

The testimony of magistrates, and societies and persons interested in probation, and the work of probation officers appointed from eligible lists, is said to emphatically vindicate appointment by examination. Clearly, however, such examinations can only be satisfactory when they are conducted by persons familiar with probation or related social work and competent to judge the qualifications of candidates, and when suitable candidates present themselves for the positions. This last point is not wholly unconnected with the question of salaries. In fixing salaries, care is taken that the salary is not so high as to make the post of probation officer attractive on that account alone. On the other hand, "the salary paid should be adequate to secure persons of the requisite qualifications." [1]

[1] American Institute of Criminal Law and Criminology: Report on Adult Probation, p. 3.

It is difficult to estimate the average salary of probation officers in England; probably £130 per annum is not very wide of the mark. In America, salaries range from 1,200 dollars to 1,800 dollars annually, exclusive of expenses. In some places, both in England and America, officers are remunerated on a capitation basis. This system has little to recommend it. It is open to abuse, since unsuitable offenders may be taken on probation for the sake of the fee; also, there is the possibility that officers may not surrender to the court offenders who violate the terms of their probation for fear of losing the grant.

In fixing salaries, account is usually taken of the age at which probation officers may be no longer expected to perform their duties efficiently: "In the case of officers grown old in the service of the State, a pension provision may well be adopted." [1]

[1] Judge C. A. DeCourcy, Superior Court, Boston, Mass.

THE PROBATION OFFICER--II

CHAPTER IV

THE PROBATION OFFICER—II

THE duties of probation officers fall roughly into two groups: (*a*) work in court, consisting of interviews with newly-arrested offenders, their relatives, friends and employers, and reports on investigations and on current probation cases; and (*b*) field work, comprising outside investigation of cases prior to probation and of cases on probation, including visits to probationers' homes, schools and employers, and co-operation with employment bureaus, dispensaries, clinics, social clubs, settlements and religious agencies. To this is added the incidental clerical work—correspondence, recording histories, and compiling statistics and reports.

The duties of a probation officer, as specified by the Probation of Offenders Act, 1907, section 4, are :—

> " (*a*) to visit or receive reports from the person under supervision at such reasonable

intervals as may be specified in the probation order or, subject thereto, as the probation officer may think fit ;

" (*b*) to see that he observes the conditions of his recognizance ;

" (*c*) to report to the court as to his behaviour ;

" (*d*) to advise, assist, and befriend him, and, when necessary, to endeavour to find him suitable employment."

The attitude of the probation officer to the probationer is such as would be adopted by a sensible friend ; for the essence of probation is constructive friendship. The officer will be neither a sentimentalist merely, on the one hand, nor a dictator or bully, on the other. At the same time, the officer is there to get things done. He must know what action to take, and with firmness as well as sympathy he must act up to his knowledge. And though he will not threaten without just cause, he will, when the occasion demands it, not hesitate to remind offenders refusing his suggestions of the court which is behind him.

It is the duty of probation officers to see their charges at " reasonable intervals." As to what constitutes a " reasonable interval," clearly no hard and fast rule can be

laid down. The interviews will take place just as often as circumstances require in each particular case. The length of time elapsing between one interview and the next can be decided by no one but the probation officer himself.

A word is needful as to the place of the interview. Some probation officers visit their charges exclusively at their homes; others require them to report themselves at fixed times at the probation office.

The practice of requiring probationers to report themselves at the probation office, though unavoidable when the probation officer is overburdened with cases, is objectionable for several reasons. In the first place, probationers come to regard such reporting as a mere matter of form. Also, it makes false reports possible. And, apart from the fact that the probationer is certain to be on his best behaviour on reporting night, and that his conduct then is no real criterion of his conduct at other times, the practice is dangerous for another reason, viz., since each officer has forty or more offenders to see each week, the great

majority of whom are working during the day, it follows that they are only free to report themselves in the evening ; therefore, even supposing the officer is able to devote every evening to interviewing probationers at the probation office, it is necessary for him to require the attendance of a considerable number on each evening ; and it is in this that the danger lies, for through meeting at the probation office probationers come to know each other and to compare notes. When it is remembered that a large proportion of those on probation are young, and susceptible to the evil influences of older offenders, the dangers of the practice are obvious. Apart from this, however, in its application, probation is usually a different thing to each offender, *i.e.*, to one offender it may be safe, and even advisable, to allow a good deal of latitude, while to allow the same in another case might be fatal ; but if probationers are to be called together and given opportunity to compare notes with each other, this very desirable elasticity in the system is very seriously restricted. Again, very often two offenders

so supplement each other that they become capable of doing together what neither could, or dare, do alone, which affords another argument against reporting in batches. Finally, there is the common-sense view of the question, namely, that giving the probationer opportunity for finding his companions among other offenders on probation is more likely to intensify his shortcomings than eradicate them. Female offenders, and especially women with children, should for obvious reasons rarely be required to report themselves at the probation office.

It is in home visitation that the most valuable work of probation is accomplished.

> "Where at all practicable, the probation officer should visit the home, where more information may be gathered in one visit than could possibly come from a dozen meetings in groups. The unit of probation may change from the person on probation to some other member of the household. Indeed, it may be found that the person on probation is a victim of circumstances over which he has little control, and consequently the efforts of the probation officer may be profitably extended to the other inmates of the home circle." [1]

[1] Mr. E. Mulready, Massachusetts State Probation Commission.

The following cases illustrate the value of home visitation :—

> " I visited a home some time ago, and among the complaints was that the husband came home in bad temper, and tried to get rid of the children. Then he would go to the saloon. He said to me, ' I get home at night, and the supper isn't ready ; the lamps are not trimmed ; the dishes, perhaps, are not cleared away : there is nothing to encourage me to stay at home. I visit the saloon, and So-and-so comes in and orders a glass of beer, sometimes two.' The saloon-keeper told me the man spent most of his time in the saloon reading. About half-past-nine he gets up and goes home. We had a friendly visitor call on that lady (the man's wife), and after a while things were running along smoothly. The man didn't leave the house, and they got on very happily."

Had this man been required merely to report himself at the probation office, the real cause of his home neglect could never have come to light at all.

The reason for child delinquency is usually to be found in the home :—

> " Many parents will let their children go out in the evening, and then go to bed themselves. I found a boy on the street after twelve o'clock. I took him to his home, and rapped on the door till the father got up. He didn't seem to care whether the boy was out or in."

Sometimes the home visit shows neighbourhood influences that require changing :

> " We had a boy who was in the habit of staying out late at night. His mother had to go out to work. I suggested that the family move into a better neighbourhood, which they did. After that the boy conducted himself well."

It is an essential condition of successful work that the offender be seen in relation to the environment in which he has to live his life. This cannot be fulfilled without frequent visits to him at his home.

It is satisfactory to know that the Criminal Justice Administration Bill definitely gives to the court power to say where a probationer shall reside. The question of residence is one of first-class importance, and often determines the issue of a case. It is very seldom indeed that a probation officer can quite overcome unfavourable home influences. Clearly, therefore, if he cannot at the outset say where the probationer shall live, his control is very seriously curtailed.

Since the effectiveness of probation depends largely on the amount of time the officer can give to each offender, a point of

first importance is the number of offenders the officer is called upon to supervise. For an officer giving his whole time to the work, the number of cases per probation officer is found to vary between thirty-five and a hundred and over. It is doubtful whether any officer should be made responsible for more than sixty cases, even where he is able to count on adequate voluntary help, and where he is acting in a populous centre, with the cases covering but a small area. Much, however, will depend upon the standard of work which the officer sets for himself, on the intensity of it, and much again, of course, on the extent to which the officer systematises his work.

For the following descriptions of the methods of probation officers, I am indebted to Mr. Frank E. Wade, Vice-President of the New York State Probation Commission :—

Juvenile Probation :

"Each child placed on probation is made to report weekly to the probation officer. If attending school, he is made to bring a signed report from his teacher, showing attendance, conduct and application. He is also made to bring a report from his parents. If employed, he is only made to bring the parents' report.

" It is seldom that a boy alters a report from his parents, but frequently a parent will give a child a good report when it ought to have been otherwise. A parent will fill out the home report to the effect that the boy behaves well at home when he does not ; that he is not in bad company or bad places when he is ; that he spends his evenings at home reading when he is out until late ; that he is absent from school because he is sick ; that he is working when he is not.

" The only way to discover that the parent is not truthful in filling out the home report is to . . . call at the boy's home at ten o'clock in the evening only to find him still on the street, go to the place of business where the parent claimed he was working only to find he was never employed there. In such cases, a severe reprimand from the probation officer will usually right matters. In some cases I have found it necessary to bring a parent into court for continuing to make out false reports.

" When I discover that a boy is not truthful, I watch him very closely, verify every statement he makes to me, and, upon the second offence, usually return him to court for violating his probation. I have in some cases given a boy two or three chances before returning him to court."

Adult Probation :

" I have found that, in order that the probation officer may be reasonably certain that his probationer has been conducting himself properly, and that the reports he makes are truthful, the officer should make a personal visit to the home . . . at least weekly. He can consult, and perhaps secure the co-operation of, parents, wives, relatives, neighbours, or others whom he might induce to take an interest in the probationer. These visits furnish an opportunity of studying

> the environment and conditions under which his probationer is situated. By doing constructive work in the home, he can remove or better the conditions that are dangerous to his probationer's welfare."

The probation officer's chief duties in court consist in reporting on such cases as are likely to be disposed of by probation, and in reporting on cases actually on probation. The latter reports are of two kinds, viz., those dealing with breaches of probation conditions, and those giving account of conduct and progress during, and at the end of, the probationary term.

The extent to which probation officers are actually occupied whilst in attendance at court will depend largely on the use made of the system and on the nature of the cases dealt with. While it is necessary that the probation officer shall be present during the trial of all offenders placed under him, much still remains to be done in preventing waste of officers' time in needless attendance at court.

Probation officers' duties in regard to the probationer's employment require some comment. Section 4 (*d*) of the Probation

of Offenders Act, 1907, says that it shall be the officer's duty to endeavour to find the probationer suitable employment, when necessary; and in England, at any rate, there is good reason to believe that this clause is on the whole faithfully obeyed. In many places the probation office becomes something of an employment bureau; the probation officers have become well known to local employers, and thus have been able to do much in finding work for their probationers. Regular work has a special value to most probationers, a disciplinary and therapeutic value, and, of course, every effort should be made to keep them steadily employed. At the same time, it is a good rule to do nothing for the probationer that he can do for himself. And, in this instance, it may prove that the probation officer will benefit his charge more lastingly by explaining to him how to use the Labour Exchange, and by seeing that he perseveres with it, than he will by actually finding the work for him.

Where the offender's material needs are

in question, the probation officer will usually seek the help of relief organisations, rather than supply them directly himself. Cases will occur, of course, the urgency of which precludes this course being followed ; but generally it is found that the giving of material aid by the probation officer tends to obscure the true relationship that should subsist between him and his charge.

One of the principal things the probation officer has to do is to make use of existing social agencies. The officer knows that in the offender's life he is but a passing agent, not a permanent one. His endeavour, therefore, is to put his charges in touch with such permanent social and religious agencies as are appropriate to their individual need ; his purpose, of course, being that these agencies shall continue to influence the offenders' lives long after the probationary period terminates.

In large cities, it is found of advantage to divide the area into districts, and to place a branch probation office in each. Given a system sufficiently extensive, and pro-

viding probationers are not called up to the probation office in batches, the district probation office has much to recommend it. Probation work is largely neighbourhood work, and the branch office is likely to obtain a better knowledge of the people, and of the district's social and constructive agencies, than is one central department. Also, where the officer's work lies in a small area, much valuable time spent in travelling is saved.

Where extensive use is made of the probation system it is found that the amount of detail work to be done can be properly performed only by re-organising the system with centred responsibility and an executive head. This re-organisation has resulted in the creation of the position of 'chief probation officer.

The duties of the chief probation officer are principally administrative. They include attending to correspondence, superintending the keeping of records and accounts and the making of reports, directing the work of other probation officers, securing and training volunteers, organising

the probation work according to districts, securing the co-operation of probation officers in other parts of the country, studying the needs of the system, and compiling statistics and an annual report. The salaries of chief probation officers in the United States range from 1,800 to 2,500 dollars a year, exclusive of expenses.

In some places the work of a chief probation officer is done by a probation committee consisting of magistrates. The advantage of this method is that it stimulates interest in the probation system. In some states, however, it has proved that direction and oversight are less efficient when exercised by a committee than when in the hands of one man. Thus, in order to keep up interest in the system, on the one hand, and secure efficient oversight, on the other, the method has been adopted of appointing both a chief probation officer and a magistrates' committee, and of requiring the chief officer to report to the committee.

The Volunteer Probation Officer.

Probation systems administered wholly by voluntary officers are apt to become haphazard and irresponsible. Where voluntary officers work under the guidance of experienced salaried officers, however, the work of both reaches a higher level.

To understand fully the need for voluntary probation officers in addition to salaried probation officers, it is needful to see how the probation system works out in actual practice.

Probation may be one of two things. It may be a system by which offenders are conditionally liberated and supervised, the supervisor (*i.e.*, the probation officer) being concerned only as to whether the offender keeps or breaks certain rules ; or it may be a system by which offenders conditionally liberated are not only supervised, but are subjected to influences calculated to develop character. The object of the former system would be achieved if the offender refrained from lawbreaking during the probationary period. The object of the latter would not

be achieved if the offender merely refrained from lawbreaking; it would be achieved only if his whole conduct reached a higher standard during and after probation than before. The point turns on which of these interpretations of probation is adopted, and will be decided largely by the number of cases the officer is called upon to supervise.

It is obvious that close and persistent attention cannot be given to each offender by a probation officer having charge of sixty to a hundred cases. But if probation is to be really constructive it is essential that close and persistent attention shall be given to each case. Therefore, in order to secure it, two courses are open: either a salaried probation officer may be appointed for every few cases—a proceeding which would be objected to on financial grounds—or voluntary social workers may be invited to co-operate with the salaried officer to supply the intensive work which makes probation real. The latter is the course generally adopted.

Voluntary probation workers usually take but one case. The idea is that one good

man or woman shall be induced to take an active personal interest in one offender, to guide and watch over him. I am indebted to the late Judge Stubbs, of the Marion County (Indianapolis) Juvenile Court, for the following comment on voluntary supervision :—

> " Most of the children committed to the care of these officers never had a friend in all their lives. Under the kindly, sympathetic supervision of a good man or woman they soon learn what it is to lead good lives . . . If there be a spark of manliness in the heart of a boy, the kindly influence of his probation officer is pretty certain to fan it into a flame, and in more than 90 per cent. of such cases we have found that the defect in a child's life can be remedied, if only his home is at all possible."

The Indianapolis Voluntary Probation Corps, numbering upwards of 500 persons, is probably the most extensive and efficient yet organised. In a note on the personnel of these officers, Judge Stubbs said :—

> " Clergymen, business men, professional men and women have come to the assistance of the court as they were needed. Catholic priests, Jewish rabbis, ministers of almost all other denominations, bankers, manufacturers, wholesale and retail merchants, lawyers, doctors and teachers, and, indeed, men from all the better classes of our citizenship, aided by more than one

hundred broad-minded, charitable women, constitute this army of volunteer probation officers."

To secure successful work from voluntary probation officers certain simple rules must be complied with. Among them are (*a*) that voluntary probation officers be chosen with as great care as salaried probation officers; (*b*) that they be formally appointed; (*c*) that they be fully instructed by the salaried probation officer as to what the court expects them to do; (*d*) that their work be closely supervised by the salaried probation officer, and that monthly reports, at least, be required from them on each case; and (*e*) that those who show "slackness" be promptly removed. Also, it is found to stimulate interest and increase efficiency in volunteers if they are called together periodically for conference.

The following Hints to Volunteer Probation Officers are selected from various sources, many of them from a pamphlet issued to the Indianapolis voluntary helpers:—

THE VOLUNTEER AND THE PROBATIONER.

First, gain the confidence of your charge: explain that you are to be his friend.

Don't " coddle " : your probationer's future is largely in his own keeping—make him understand this.

Begin by believing in him, but never let him succeed in deceiving you.

Praise when you can—never miss. But always be sure first.

Keep in touch with him weekly : oftener if you can.

Make definite appointments sometimes, and see that he keeps them promptly ; keep them promptly yourself.

Don't count on seeing him *entirely* by appointment.

If the probationer is not glad to see you, don't go. Tell the probation officer to find you another case.

Don't think of your lad as a " case "—he isn't to you.

See your charge alone ; if you have two probationers, see them separately. As a rule, probationers are not good company for each other.

Study your lad—his temperament, habits, interests. Make his interests yours, and so get common ground between you.

If he is a school-boy, see his teacher ; maybe you can help each other.

If he is over school age, see that he has regular work. Find out his industrial record : how long in present situation, and previous ones ; how long out of work between each ; how he was occupied between the situations (*i.e.*, whether street-vending) ; how many situations since leaving school.

Insist that the employment shall lead to skilled workmanship ; encourage attendance at night-school for supplementary training when possible.

Know how he spends his money ; see that he starts a banking account. If living at home, when practicable, insist that he pay a regular sum

for board ; in return, make sure that he receives regular spending money.

Discover what he reads ; show him how to get a library ticket ; help him to select the right book ; talk it over with him.

Tell him to bring his friend along next time.

Encourage him to join a church or other religious body.

Hark back to the lad's more hopeful days—there were some. Every lad has his "hero" : find out who, and connect them up again.

Introduce the lad to a club : the "gang spirit"—which is a workaday synonym for Fellowship—will express itself somehow—it is either the club or the coffee-shop and gambling : you might as well have a voice as to which.

If there is a list of clubs in your district, get a copy : things like these are your tools.

In all of this keep the boy's relation to the court confidential ; show that you do this to build up his self-respect.

If, however, you find he is not to be trusted, check everything he says.

Don't tell anyone the lad is on probation. If it has to be done, let the probation officer do it.

Don't threaten : persuasion goes farther than coercion—and lasts longer.

You may find it necessary to help the lad with clothing, food or lodgings, but, if you can, see the probation officer first. In any case, never give money.

Don't try to buy the probationer's goodwill by presents. They change the relations between you —for the worse.

Lastly—don't become discouraged.

THE VOLUNTEER AND THE HOME.

Visit the home at least once a month ; more often if needful.

Explain to the parents your relation to the

child; gain their confidence and co-operation: give them yours.

Make a careful study of the home conditions; inform yourself thoroughly as to the family.

If necessary for the probationer's good, insist on possible changes, such as moving into a better neighbourhood, etc. Above all, keep your relationship to the home a friendly one; refer points of discipline or disagreement to the probation officer.

THE VOLUNTEER AND THE COURT.

Remember you are not an official, but a friend. Your authority is your personal influence.

You do not act instead of the probation officer, but in addition to him.

Consult frequently with the probation officer, and write to him every month. See him about difficulties.

Report all irregularities of conduct at once, but as far as possible adjust difficulties non-officially.

If, after a fair trial, for any reason, you find it impossible to become interested in the particular lad assigned to you, ask to have him transferred: no creative probation work can be done without a mutual liking.

If you haven't time to do the work, say so: it is fairer to your probationer—and to you.

Don't be in a hurry to sever the relation between yourself and your probationer. Lay a course for him, and count your work done when he covers it.

Much successful voluntary help is obtained, not by creating a special body of persons, but by making use of social workers already established in the neighbourhood

in which the offender lives. Under this scheme, the persons invited to co-operate are those who are already dealing with persons of similar age and condition to the offender. These helpers are commonly found among Church and Chapel workers, Adult School and Brotherhood leaders, social service committees, boys' club managers, class superintendents, etc. There would appear to be no reason why such persons, if suitable and willing to undertake the work, should not be entrusted with it, rather than a special organisation created; in practice, volunteer probation officers are recruited from both sources.[1]

[1] The Criminal Justice Administration Bill gives power to recognise and subsidise societies for the care of youthful offenders on probation. It proposes:

"(1) If a society is formed having as its object or amongst its objects the care and control of persons under the age of twenty-one whilst on probation under the Probation of Offenders Act, 1907, or of persons whilst placed out on licence from a reformatory or industrial school or Borstal institution, or under supervision after the determination of the period of their detention in such a school or institution, or under supervision in pursuance of this Act, the society may apply to the Secretary of State for recognition, and the Secretary of State, if he approves of the constitution of the society and is satisfied as to the means adopted by the society for securing such objects as aforesaid, may grant his recognition to the society.

In 1912 was formed in England an Association of Probation Officers, having for its objects:—

"(*a*) The advancement of probation work;

"(*b*) the promotion of a bond of union amongst probation officers, the provision of opportunities for social intercourse, and the giving and securing of friendly advice;

"(*c*) to enable probation officers from practical experience, by collective action, to bring forward sugges-

"(2) Where a probation order is made by a court of summary jurisdiction in respect of a person who appears to the court to be under the age of twenty-one, the court may appoint any officer provided by a recognised society to act as probation officer in the case.

"(3) Where a probation officer provided by a recognised society has been appointed to act in any case and it is subsequently found by the society expedient that some other officer provided by the society should be substituted for the officer originally appointed, the society may, subject to the approval of the court appoint such other officer to act, and thereupon the probation order shall have effect as if such substituted officer had originally been appointed to act as probation officer.

"(4) There may be paid to a recognised society out of moneys provided by Parliament towards the expenses incurred by the society such sums on such conditions as the Secretary of State, with the approval of the Treasury, may recommend."

tions on probation work, and on the reformation of offenders."

The membership of the Association is 250; and Mr. G. H. Warren, Town Hall, Croydon, is the honorary secretary.

RESULTS OF PROBATION

CHAPTER V

RESULTS OF PROBATION

It is impossible, as yet, to measure the success which the probation system obtains, either in America or in England. The reason, so far as England is concerned, is that, though annual returns are made to the Home Office, showing the result of every probation case, the Home Office has so far vouchsafed to the public no figures based upon these returns. The omission is not very regrettable, however, for though English probation is now in its seventh year, a great part of the period was experimental, the figures for which could scarcely fail to be unreliable.[1] As a matter of fact,

[1] The results of probation in Birmingham are, roughly, as follows :—

	Satisfactory.	Unsatisfactory.
Juvenile offenders .	94 per cent.	6 per cent.
Adult offenders (based on 437 consecutive cases, males and females, period of probation twelve months in each case)	72 per cent.	28 per cent.

for statistical purposes, the system has nowhere been in operation for a sufficient length of time ; moreover, though there is no lack of figures relating to American probation, they are tabulated on no general system, but largely according to local ideas ; also the standard by which results are measured varies in different localities, *i.e.*, what in one court is called success, in another is called failure ; again, the determining factors of probation—the kind of probation officers, the kind of cases, the length of the probationary period—vary between court and court. In one place, probation officers are appointed only after rigorous examination ; in another, merely through personal influence. Some courts select offenders for probation only after thorough inquiry as to their suitability ; others require no such inquiry to be made. The period of probation in many localities is six months or under ; in others, a year or more ; in others, again, the period of probation is indeterminate, being decided by the conduct of the probationer.

One of the most valuable sets of figures

relating to probation results is contained in the report of the Massachusetts State Probation Commission. These figures, coming as they do from the State having by far the longest experience of the probation system, should command attention. They are :—

1. Discharged at expiration of probation	8,651
2. Probation extended	1,932
3. Arrested for new offences during probation	668
4. Disappeared from oversight.	1,303
5. Surrendered to court for violation of conditions	1,638
	14,192

It is probably fair to assume that items 3, 4, and 5 represent cases in which probation proved unsatisfactory ; item 2, cases in which the issue was doubtful, and item 1, satisfactory cases. This gives results as follows :—

Satisfactory.	Unsatisfactory.	Doubtful.
8,651	3,609	1,932

The 1,932 cases in which probation was extended probably were so treated because they were neither bad enough to return to court for sentence, nor good enough to be

wholly discharged. One may assume, for the sake of arriving at an approximate figure, that one half of them ultimately proved unsatisfactory and one half satisfactory. This gives 4,575 unsatisfactory cases against 9,617 satisfactory. The figures cover adults and juveniles of both sexes.

The results of probation in New York State, for the year ending December 31st, 1912, are given in the New York State Probation Commission's Report as follows :

Results.	Boys.	Girls.	Men.	Women.	Total.
Discharged with improvement .	2,263	512	5,066	1,061	8,902
Discharged without improvement . .	66	10	342	76	494
Re-arrested and committed .	476	90	712	192	1,470
Removed to other localities . .	30	5	76	10	121
Absconded or lost from oversight .	15	3	287	84	389
Unstated results .	177	28	178	34	417
Total .	3,027	648	6,661	1,457	11,793

Omitting cases where probationers removed to other localities, and those in

which the results were not stated, 11,255 cases remain in which probation was reported by probation officers as having been either successful or unsuccessful. The table below gives the results in these cases in percentages. (In publishing these estimates, the Commission does not vouch for their correctness. In all probability the proportion of successful cases is somewhat over-estimated) :—

Result.	Boys. Per cent.	Girls. Per cent.	Men. Per cent.	Women. Per cent.	Children and Adults. Per cent.
Discharged with improvement	80	83	79	75	79
Discharged without improvement .	2	1	5	5	4
Re-arrested and committed .	16	14	11	13	13
Absconded or lost from oversight .	0.5	0.4	4	5	3

These returns from New York and Massachusetts cover, roughly, 22,500 cases. From them it appears that the average percentage of success, taking children and adults together, is between 70 and 80. In view of the circumstances in which the

figures are compiled, it will perhaps be safer to take the lower estimate, and say that of every hundred probation cases about seventy prove satisfactory.

The question of probation results is not merely one of percentages, however. In order to measure the real results of probation to the community, it is necessary to know what precisely is implied by the terms "success" and "failure." For example, of the cases here returned as successful, one would like to know to what degree they were successful, *i.e.*, whether the conduct of these probationers was just sufficiently good to keep them from court during the probationary term, or whether the whole level of their conduct was so raised as to render it unlikely they would ever offend again. Probation results in this sense are, of course, impossible to ascertain.

The results of probation vary with the length of the probationary term. Offenders under supervision for short periods show a much larger percentage of success than those under supervision for longer periods. At present, however, there are

no statistics to show whether this means (*a*) that those subjected to short terms of probation are the less serious offenders and those subjected to long terms the more serious, or (*b*) whether any appreciable number of the short-term probationers would have reverted to crime, and have been classified as unsuccessful, had they been kept under supervision for a longer period.

Probation results are affected, also, by the conditions offenders are required to observe: the more stringent the demands made upon them, the greater the number of failures. Here again, however, there is little data to go upon. In fact, one cannot get the results of probation down to figures with anything like accuracy. The most one can do is to offer more or less convincing generalisations, made with care by competent observers.

Of the general results of probation to the community, the American Institute of Criminal Law and Criminology reports that:—

"from the experience of those dealing with the

system at close range, and under as favourable conditions as have yet been attained, it is possible to declare that there has been, through its operation, a large financial saving in the maintenance of penal institutions, for the cost of maintenance of the probation system is but a small fraction of the net cost to care for the same number in confinement ; that prevention of waste in productive power, and the public burden of supporting dependants of imprisoned convicts, is of still greater economic value, and the results to society by reformation of offenders in a large proportion of the cases better than the results obtainable through prison sentences." [1]

Probably the most influential endorsement of the probation system was given by the eighth International Penitentiary Congress held at Washington in 1910, when one of its sections addressed itself to the question :

" What is the effect upon criminality of the legal measures taken in the different States in the form of probation or suspension of sentence, etc., to avoid the necessity of imprisonment, especially at the time of first conviction, taking account of the age, character, and antecedents of the person, and is it desirable that these and similar laws, should be extended ? "

The answers which the Congress gave to this question were :—

" 1.—That the effects of probation are beneficial when applied with due regard to the protection of the community and to persons who

[1] Report on Adult Probation, p. 11.

may reasonably be expected to reform, without resorting to imprisonment; and when the probationers are placed for a reasonable length of time under the supervision of competent officers.

"2.—That the effects of suspended sentence, without probationary oversight, are difficult, if not impossible, to ascertain.

"3.—That it is desirable to introduce and extend laws providing for probation, and to provide in each State or country some central authority which will exercise general supervision over probation work."

Thirty-four States were represented at the Congress by eighty-one delegates, and these resolutions were carried unanimously.

Since probation is often regarded as a substitute for prison in the case of adult offenders, and for industrial schools and kindred institutions, in the case of juveniles, it may be helpful to compare the results of its operations in these connections.

It should first be pointed out that, compared with institutional treatment generally, the probation system takes the more adequate view of the elements of conduct. The institution recognises only the individual element, and, concentrating on the individual, surrounds him with favourable influences in the hope that, when set at liberty, his power of resistance

will be greater than the power of his surroundings, even though the latter were too great for him before. The probation system takes note both of surroundings and individual, attributes to each a share in producing the wrong conduct, and tries to correct both. Moreover, what is vastly more important, the probation system does not shut off offenders from the minutiæ of everyday life, as do institutions. To live a normal life it is necessary to sustain natural relationships with one's fellows—the relationships of employment, friendship, home ties, etc. The play and counter-play of a man and his surroundings give the conditions in which strength and resistance are developed—and it is in these that institutional life is largely deficient: the life is not interesting, the inmate's sensibilities become dulled because they are too little called into play; he is subject to no real, living impressions.

With juvenile offenders, especially with girls, there has always been on the part of those defrauded a reluctance to prosecute, for fear that a conviction would result

in the child's commitment to an industrial school. The result was that female offenders were often hopeless even before their first arrest. The probation system has the special advantage in these cases that it is not repugnant to public feeling. When it becomes generally known that the prosecution of girl offenders is likely to result in friendly supervision and help, rather than in commitment to an industrial school or other institution, it is probable that the early offences of girls will no longer go uncorrected.

It is undesirable to stress the financial advantages of probation, as compared with institutional treatment. The following interesting computation, made by the Baltimore (Maryland) City Juvenile Court, is, however, deserving of attention :—

> "Assuming there were no juvenile court, of the number placed on probation during the year, those who would have been committed to gaol and other institutions would have cost the city—
>
> | | |
> |---|---|
> | To maintain in institutions. | 21,244 dollars |
> | Court costs and maintenance during permanent commitment . . | 3,947 ,, |
> | | 25,191 dollars |

> In computing the above, due allowance is made for those who probably would have been dismissed, or who otherwise would have escaped punishment. The percentage of allowance is based on averages obtained from court and magistrate dockets. By a careful, yet approximate, computation of the financial value of probation, and the expense the city would have been subjected to had there been no juvenile court or probation system, it is estimated that there was a net saving to the city during the past year of 12,828.50 dollars."

In its 1909 report the same court states that 473 children were placed on probation, and estimates that—

> " had these children been committed to institutions, it would have cost the State and city 60,000 dollars annually to properly care for them. On the other hand, the annual cost of maintaining the juvenile court, including salaries and other expenses, is only about 12,500 dollars. It will thus be seen that if, of the 3,000 and more children that are annually arraigned in the court, only 100 are saved from commitment to an institution, the saving will equal the entire cost of maintaining the juvenile court."

The financial gain computed over a wide area is even more striking. In Massachusetts in 1912 the moneys collected by probation officers exceeded by 20,000 dollars the entire cost of the probation service to the commonwealth. In 1913, the

surplus over expenses of the service was more than 80,000 dollars.

In comparing probation with prisons, in the case of adult offenders, it will be helpful to see at the outset to what extent imprisonment is resorted to for the purpose of social protection, and in what degree that purpose is achieved. And since English data are more to the point than American in this connection, it is from the Reports of the English Prisons Commissioners that the facts here given are taken.

In the first place it should be remembered that prisons directly safeguard society only during the term of their inmates' incarceration. During 1911, in the British Isles, 130,350 men and women were imprisoned. Of these, more than 80 per cent. were sentenced to one month, or less than one month. Thus it would seem that the protection which society enjoys as the result of gaoling is, as to 80 per cent. of it, scarcely worth considering ; especially since such sentences, short though they are, are quite long enough to cause offenders to lose their employment, and thus

increase the likelihood of further misconduct.

It would seem that these considerations alone seriously discount the protection-of-society argument, even were there no others. But this is not so. During the same year, of the total number of persons imprisoned, 24,885, or 50 per cent., were committed in default of paying fines. Of these, 14 per cent. paid part of their fines, or the whole of them; those remaining served the full term of sentence in default. So that between one-third and one-half of all persons imprisoned in 1911 in England were imprisoned not because society was afraid of them, but because they could not pay their debts. Again, if gaoling is advocated for its deterrent effect, it may be answered that, of all men sentenced to imprisonment in 1911, more than half, 58·5 per cent., had been previously convicted—and therefore, of course, previously "deterred."

These facts give some idea how successful the probation system must be to compare favourably with the prisons system! In

order that the comparison may be complete, however, it is necessary to see the effects of gaoling compared with the effects of probation on the individual offender.

In the first place comes the question of employment. Whatever may be done by charitable societies for prisoners after their sentences expire, at the date of discharge, the great majority of prisoners are unemployed, and therefore likely to offend again. When discharged from probation, the records show that offenders are almost always in regular employment. Moreover, the stigma of imprisonment makes it difficult for the ex-prisoner to get employment. The probation system, properly administered, carries with it no such stigma. Again, though it is true that whilst on probation one can never be quite sure that the offender does not frequent undesirable company, in gaol he is deliberately compelled to associate with vicious characters. Further, despite the classification of prisoners, it is obviously impracticable for gaols to adapt their treatment to each offender individually ; the probation system

lends itself to individual treatment. Again, where gaoling is used for property offenders, there is no possibility of restoring to the person victimised the value of his goods. When probation is used, it may be made a condition of the offender's freedom that he pay adequate compensation for loss. This is not only just to the person defrauded, but has a beneficial effect on the offender. It is also possible, by the probation system, to avoid imprisonment in default of fine. The American practice of placing offenders on probation on condition they pay their fines by instalments has obvious advantages over the English practice of imprisoning them if they are unable to pay down the whole sum at once. Besides placing the offender without means on an equality with the offender with means, it avoids unnecessary hardship on the offender's innocent dependants, affords him incentive to work to earn the fine, increases public revenue from fines, and decreases the cost of prisons maintenance, besides bringing into the offender's life the friendly stimulus of the probation officer. Moreover, with

youths, allowing time to pay the fine is more likely to secure that it is paid by the culprit himself instead of by his parents, and that the disciplinary influence of the fine is really felt by the offender as the magistrate intended it to be.[1] Again, during probation, the offender is made to work for his own support, and for the support of his family. During imprisonment he is directly supported by public money, and his family very often is indirectly supported by the public also through charities; or, if not, the home is broken up, a proceeding which entails hardship and risk of further wrong-doing on the part of its members. Finally, there is a financial aspect to the comparison. New York State estimates that :—

> "the public cost of caring for about 120,000 inmates of penal and reformatory institutions averages about 4,000,000 (four million) dollars a year. The cost of caring for over 10,000 persons on probation in New York State during 1908 cost the public only about 63,000 dollars. Should a probation officer, receiving 1,200 dollars

[1] The Criminal Justices Administration Bill obliges the court to allow time for payment of fines, and permits it to place offenders, aged 16—21, under supervision until the fine is paid.

> salary, save during the year only five or six boys from commitment to a reformatory, the financial saving would equal his salary." [1]

Thus, whether one compares the results to society of the probation system and the gaol system, or whether one looks at the lives of the offenders themselves, the probation system shows advantageously as at once the more educational and the more economical method. Probation has also the advantage that, when administered by officers of training and judgment, it offers a means of discovering something of the causes, individual, social and economic, behind lawlessness.

[1] New York State Probation Commission, 1908, Report, p. 14.

UNSUCCESSFUL PROBATION CASES

CHAPTER VI

UNSUCCESSFUL PROBATION CASES

THE probationer who, during the term of probation, violates the conditions of his release, renders himself liable to punishment for the offence for which he was originally placed on probation. Such offenders are classified in probation returns as unsuccessful cases.

Probationers are held to have violated the conditions of probation (*a*) when returned to court by the probation officer for breach of conditions ; (*b*) when arrested by the police and convicted of a further offence ; and (*c*) when they abscond.

Clearly, probationers guilty of misconduct whilst on probation demand prompt and effectual action, as well for their own sake as for that of other probationers, and ultimately, of course, of society. The very nature of the probation system demands,

as a corollary, that violators receive treatment certain and severe ; for just in so far as misconduct is ignored or treated lightly will the idea go abroad that probation is a sham, and, so far as further court action is concerned, is equivalent to a discharge. It is common experience that when unsatisfactory conduct is allowed to go unnoticed, the culprit becomes a danger to other probationers, since he may go among them and talk about it ; and thus the system is brought into disrepute, both with other offenders and with the public generally.

The importance of prompt action where probation conditions are broken has scarcely yet been properly realised. Even in Massachusetts, after thirty years' experience of the system, it is still found that, though

> " some probation officers promptly return to the court from which they were originally released persons who violate the conditions of their probation . . . in other jurisdictions such persons are permitted to violate these conditions with impunity." [1]

The reason why misconduct is so often condoned is partly to be found in the

[1] Massachusetts State Probation Commission, 1909, Report, p. 26.

probation officer's not unnatural reluctance to admit failure. The chief reason, however, is the fact that the officer's knowledge of his charges becomes so intimate that, even in the probationer guilty of further misconduct, the officer is frequently conscious of some saving grace which makes him reluctant to take the drastic measure of having the offender re-arrested. It is very rarely indeed that a straight issue presents itself. Clearly, therefore, no hard and fast rule can be applied to violators of probation. The most one can say is that where a probationer's conduct is continuously and flagrantly bad, he should be re-arrested and sentenced. Otherwise each case must be dealt with on its merits, always bearing in mind that, besides the offender's interests, the interests of other probationers, the good repute of the probation system, and its obligations to the community have to be considered.

In England, offenders violating the terms of probation are brought before the court, either by summary arrest by the police on a fresh charge, or by a summons or warrant—

usually a warrant—issued on a sworn information of misconduct. Issuance of a warrant is resorted to only when other means of securing the observance of the conditions of probation have failed. In the first instance, misconduct on the part of the probationer is investigated by the probation officer. If the misconduct is serious, or if the offender has absconded, the facts are reported to court on the sworn information, and the summons or warrant issues in due course.

It is essential that every breach of probation conditions shall be noted, and that action shall be taken, but it does not follow that in each instance the probationer shall be brought to court and sentenced for the original offence. A visit to his home, and a friendly warning by the probation officer, often achieves the end desired ; failing this, an unofficial summons to interview the probation officer at the probation office may prevent further misconduct, and so save the culprit's arrest. The period of unsatisfactory conduct should not be prolonged unduly, however.

Where an offender on probation commits

a fresh offence, the nature of the fresh offence, whether trivial or serious, is sometimes taken into account. This is not always the case, however. In some courts, any further offence, no matter how trivial, revives the original charge, and leads to the probationer's punishment for it. The point is made clear by the following case. A youth of nineteen, placed on probation for attempted burglary, observed the conditions for nine months, during which time he gained an honest living by regular work. He was then convicted of playing football in the public street. According to the one view, the fact that the youth had played football illegally would cause him to be recharged with attempted burglary; his probation might be terminated, and the result entered as unsatisfactory. According to the other view, the comparatively trivial nature of the second offence would not greatly interfere with probation; and, if no further serious charge were sustained against this offender, the chief object of probation would be held to be attained, and the case eventually closed as satisfactory.

A great proportion of unsuccessful probation cases consists of probationers who are lost sight of. These include offenders who give false names and addresses, and those who, while giving correct particulars about themselves, take an early opportunity of changing their addresses, and even of moving to localities in which the court to which they are responsible has no jurisdiction, for the sole purpose of evading supervision.

The cases in which offenders are enabled to abscond by giving fictitious addresses may be easily eliminated by the court insisting on a preliminary inquiry before any offender is released on probation. This gives the probation officer an opportunity to check the address. Where the offender moves from his address without notifying the probation officer, and where efforts to trace him prove unavailing, issuance of a warrant is the only course open. Every absconding probationer tends to undermine the good repute of the system, and it is a short-sighted policy which permits absconders to remain at large for a longer time than is quite necessary.

It sometimes happens that an absconder succeeds in eluding both probation officer and police during the whole term of probation. The method usually adopted in these cases is to discharge the offender at the end of probation, but let the warrant for his arrest continue in force. This difficulty has been met in New York State under section 11A, sub-section 4, of the Code of Criminal Procedure, which authorises the courts to extend the original probationary period so as to include all of the time the probationers are in hiding or outside the jurisdiction of the court. In this way, probation officers are enabled to secure the re-arrest of an absconding probationer at any time after his original probationary period has expired. This section is said not to have been put into operation as often as needful, however, though those officers who have taken advantage of it speak highly of its usefulness.

It does not always follow, when a probationer changes his address without notifying the fact, that this is wilfully done to elude supervision. Frequently mere stupi-

dity or carelessness is the explanation. This is made clear when it is remembered from what class of the community probationers are chiefly drawn, and when their actions in matters other than probation are examined. For example, it is a common complaint of trade-union secretaries that their members often omit to notify changes of address, even though they may suffer pecuniarily as a result of the omission. A circumstance such as this should cause careful scrutiny to be made of each case of absconding, that the careless probationer may be distinguished from the wilful absconder.

Many offenders are lost sight of, not because they wish to avoid oversight, but because for a legitimate reason they leave the jurisdiction in which they were put on probation. Examples of these are young people who return to their parents in other localities, men who find employment in other towns, and husbands who return to their wives and families in other places. In these, and in many other cases, the wise thing to do is to transfer the cases

to officers acting in the localities to which the probationers move. Unfortunately, the present stage of development of English probation does not permit transference of cases in anything like a systematic manner. To transfer probationers from one jurisdiction to another implies a national probation service administered by salaried probation officers, and to this we have not yet attained. Such transference as now obtains is largely informal, and is made possible only through the goodwill of the officers themselves. The fact is, the whole question of the movements of probationers needs reviewing. The probationer should know whether he is to be permitted to leave the jurisdiction of the court, and, if so, for how long at any one time. Where his absence is likely to be temporary, and its object is reconcilable with the objects of probation, some form of written permission may well be introduced. Where, on the other hand, prolonged absence is anticipated, an instruction should be sent to the probation officer acting in the jurisdiction to which the probationer re-

moves, directing him to exercise supervision on behalf of the original court.

For those probationers who break the conditions of probation by the commission of fresh offences, one cannot resist the conclusion that something over and above mere gaoling will become necessary. If the probation system is administered thoroughly, if every juvenile and adult offender suitable for probation is placed on probation for a sufficient length of time, under competent officers, then logically those probationers who continue to offend will go to form the group from which almost all the habitual criminals of the future will come. The probation system will act as a sieve: those individuals whose offences were chiefly attributable to defective social environment will have been eliminated; those remaining, recidivists whose offences are due to inherent individual weaknesses and defects, will form the real criminal problem. For this reason it is suggested that those who continue in crime despite probation demand much closer attention than is, as yet, given to them. And

though the lines upon which their treatment will go scarcely comes within our present scope, experience seems to show that an indispensable preliminary will be exhaustive physical and mental examination, this because so great a proportion of the offenders who fail to respond to probation are physically or mentally defective.

For youthful offenders suffering from physical defects so serious as to rule them out of ordinary industry, we need long-term training centres to which they may be committed for sufficient time thoroughly to master a trade, that on their release they may enter a handicraft on equal terms with their non-defective fellows. For this purpose, five years will probably be found none too long.

Finally, for offenders not defective in any obvious sense, we may see the wisdom of a course of Borstal or other training, sufficiently prolonged to create lasting habits of industry, on the one hand, and, on the other, to impart saleable industrial training. Many offenders, especially youths, who fail

on probation can offer to employers neither stability nor skill. They cannot earn wages because they possess nothing an employer will buy. Were it possible to subject them to the discipline and craft-teaching they so clearly need without first having to wait until their criminal offences reach the necessary magnitude, the results would be more economical in every way.[1]

[1] It is good to find this difficulty partly provided against by the Criminal Justice Administration Bill. By section 10 : " Where a person is summarily convicted of any offence for which the court has power to impose a sentence of imprisonment for one month or upwards without the option of a fine, and—

" (*a*) it appears to the court that the offender is not less than sixteen nor more than twenty-one years of age ; and

" (*b*) it is proved that the offender has previously been convicted of any offence or, that having been previously discharged on probation, he failed to observe a condition of his recognizance ; and

" (*c*) it appears to the court that by reason of the offender's criminal habits or tendencies, or association with persons of bad character, it is expedient that he should be subject to detention for such term and under such instruction and discipline as appears most conducive to his reformation and the repression of crime,

it shall be lawful for the court, in lieu of passing sentence, to commit the offender to prison until the next quarter sessions, and the court of quarter sessions shall inquire into the circumstances of the case, and if it appears to the court that the offender is of such age as aforesaid and that for any such reason as aforesaid it is expedient that the offender should be subject to such detention as aforesaid, shall pass such sentence of detention in a Borstal institution as is authorised by Part I. of the

Prevention of Crime Act, 1908, as amended by this Act; otherwise the court shall deal with the case in any way in which the court of summary jurisdiction might have dealt with it:

"Provided that if the offender consents, the court by which he is convicted, instead of so committing him for sentence, may itself pass such sentence of detention in a Borstal institution as aforesaid.

"The term for which a person may be sentenced to detention in a Borstal institution under section one of the Prevention of Crime Act, 1908, shall not be less than two years."

It is to be hoped that the clause above, reading "a sentence of imprisonment for one month or upwards without the option of a fine" will be altered before the Bill becomes law. Otherwise this excellent section will fail of its object in very many cases. The offence which merits a month's imprisonment without the option of a fine is a serious offence usually; and it ought not to be necessary to wait till the offender's criminal career is so far advanced before being able to deal effectively with him.

DEFECTS OF THE SYSTEM

CHAPTER VII

DEFECTS OF THE SYSTEM

THE defects of the probation system are defects of administration, rather than of principle, and are traceable largely to misapprehensions of the nature of the system arising from its extraordinarily rapid growth. The defects consist chiefly in (*a*) unsuitable probation officers, (*b*) unsuitable cases, (*c*) too short probationary periods, and (*d*) inadequacy of organisation and control.

The question of unsuitable probation officers has been already partly considered.[1] It should be added, however, that even where the system is administered by fully competent officers, there is, in certain circumstances, still a danger that it may become perfunctory. For example, no matter how efficient and conscientious the probation

[1] See Chap. III.

officer may be, if he is permitted by the court to be overladen with cases, the result will be as bad as though he were neither conscientious nor efficient. The officer must have time enough for frequent home visitation, and for interviewing his charges at places other than their homes ; he must be able to keep up-to-date in regard to their behaviour ; and, above all, if he is to keep his head above his cases, he must have a margin of time not ear-marked at all, but in reserve, partly to draw upon when the needs of any case demand it, but chiefly to enable him to keep a normal outlook. The importance of personality in the probation officer has always been recognised : what is not always recognised is that when the officer is swamped with cases the result is the elimination from probation of everything except its routine, and the possible wrecking of the instrument through which the system operates. Where an officer is expected to " look after " anything up to a hundred cases, to visit them—not to call, merely, but really to know all these people, assimilate their varying points of view,

throw himself into their lives, understand their temptations, and make their interests his own—and where, in addition, there are letters to be written, registers to be posted, employers to be interviewed, and court to be attended, then it is small wonder that probation sometimes becomes perfunctory and meaningless. What happens in such circumstances is that the probation officer degenerates into a mere inspector. The intensive, constructive work of probation becomes impossible; the "personality" of the officer is negatived, he has to lower his ideal—and with it that of the probation system.

The second defect of probation is in its application to unsuitable cases. No offender, reclaimable or otherwise, should be released on probation, unless his individual interests are reconcilable with the interests of the community. This elementary condition is emphasised because extensive use of the probation system does not always appear to have been differentiated from indiscriminate use. Probation is not a panacea for every ill-doer, even though he

be a juvenile or a first offender. As is pointed out by Mr. A. W. Towne, of the New York State Probation Commission,

> "to fail to place the offender under a vigorous corrective discipline when such a course is clearly indicated by the circumstances of the offence, and the previous character and present disposition of the offender, is an evil only less serious than to imprison the offender when the circumstances would justify his release on probation."

One method by which the number of unsuitable cases may be reduced is to refrain from applying probation to epileptic or defective children. The ordinary methods of probation fail to reach children of this kind; and, since it is from these that the criminal problem of the future will chiefly come, it is necessary that they be provided for by the institution of court clinics, where mental and physical abnormalities may be discovered and dealt with.[1]

The release of unsuitable offenders on probation has led some critics to say that, so far at any rate as adult offenders are concerned, probation is simply a method of "turning criminals loose on society." Waiving the obvious retort that every

[1] See Chap. I., pp. 24—30.

method short of hanging is open to the same criticism, it is possible to show that probation is not only not a danger, but is, as is claimed for it, of positive constructive value to society. In 1910, after probation had been operative for thirty-three years, the State of Massachusetts appointed a commission to consider, among other things, the question whether there was in the State any increase of criminals. The commission reported in 1911. Its investigations revealed a diminished ratio of crime to the population; and, after commenting on "the enormous value" of probation "in reshaping the lives of children," [1] and on "its proven worth as a substitute for imprisonment, and as a means of reformation" [2] in the case of adult offenders, the commission made a definite recommendation for the "extension of the system of probation . . . as a substitute for imprisonment." [3] In view of the fact that in the two years immediately preceding this report, 29,500

[1] Commission to Investigate the Question of the Increase of Criminals, Mental Defectives, Epileptics, and Degenerates, Report, p. 45.
[2] *Ibid.*, p. 46.
[3] *Ibid.*, p. 50.

offenders were released into society on probation by the courts of Massachusetts, the commission's findings and recommendation are particularly reassuring. The real position under this head is well summed up by a committee of the American Institute of Criminal Law and Criminology, which after an investigation of adult probation in 1910 reported that

> " the fancied dangers to society arise, not from the application of the probation system, but from the misapplication of it, through judicial ignorance and error, to cases to which it is not suited." [1]

The third defect to which the probation system is liable is too short probationary periods. In fixing the period of probation, it should be remembered that the chief object is to accomplish, or to create conditions whereby to accomplish, permanent changes in the habit of mind of the offender, in his outlook on life, and in his surroundings —and this not merely to the extent of enabling him to conform to the minimum standards of honesty and general conduct required by law, but in order that the whole

[1] Report on Adult Probation, p. 11.

standard of his life may be so raised as to put him in a fair way of achieving real worthiness. Such an ideal cannot be attained quickly. To create the conditions for it, to get the offender in the necessary frame of mind, is not merely a question of months, but of years. So far from this having been generally realised, however, it is a common thing to find periods of two or three months specified as the probationary term. For really constructive work, such brief terms are useless; nor are they of much use in training offenders merely to keep within the law. The first few weeks of probation are usually full of unpleasant memories—of arrest, of being escorted to the police station by the constable under the gaze of friends and relatives, of the night time in the cell, of the public trial—and these are usually quite enough to keep the tyro "straight" for a while. It is not during the period when these memories are fresh that the offender needs help. It is when they grow dim, when the old public-house or the old street corner begins to call him again, and he is emboldened to seek out

his old associates—it is at this time that the probation officer should be at hand, with an alternative to the street corner or public-house, with an introduction to more wholesome companions and healthier interests than are to be found there. The offender seldom needs help in the making of resolutions—they pour out of him in the cells of a police station ; but—and here is the point as it affects the fixing of the term of probation—it is in a period of reaction that his resolutions have to be kept ; his former weaknesses, re-asserting themselves, threaten to dislodge the better inclination, and, in the absence of the confidence which the probation officer can inspire, they will succeed. Thus the period of probation should be of sufficient length to cover this period of reaction. This is the reason that probation results covering periods of less than twelve months are scarcely worth the paper they are printed on.

The fourth defect of the probation system is lack of organisation, not so much amongst its administrators in individual courts, as in the country as a whole. Local courts are,

presumably, responsible to the Home Office ; but, at the time of writing, there exists no body whose business it is to supervise, develop and co-ordinate probation work on a national basis. True, it is impossible, undesirable even, to standardise the work of individual probation officers. The case in hand will be treated as the officer in his discretion thinks fit, and any suggestion from above will probably be a mistaken one. But there is no reason at all why the general conditions under which probation work is done should not be properly organised. Locally, the several units of probation administration (the voluntary and salaried probation officers, that is) should be immediately responsible to a chief probation officer ; the chief probation officer, in turn, to be responsible to a committee of local justices. Nationally, there should be created a special permanent branch of the Home Office to exercise general oversight and supervision of probation work. Amongst other things, this special department would seek to develop the probation system throughout the country, to stimulate

backward courts to action, to effect some arrangement whereby cases could be transferred from one locality to another, when that course was advisable; to publish annually a list giving the name and address of every probation officer appointed under the Probation of Offenders Act, 1907, and to supply a copy to each probation officer, magistrates' clerk, and clerk of quarter sessions and assize; to supply a guide to magistrates and probation officers giving the text of statutes immediately affecting probation, with the necessary memoranda and explanations, and a copy of the Home Office Probation Rules; to issue an annual report; to have supreme oversight over the work of probation officers; to appoint one or more travelling supervisors of probation work, and to publish their reports.[1]

[1] Since the above was written, the Home Office has created a special department to deal with questions relating to children, including juvenile probation and children's courts: what we now require is a similar department for adult probation—and the scope of both widening on the lines set out above.

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